

**CONSOLIDATED VERSION**  
**LAW ON THE CUSTOMS ADMINISTRATION – UNOFFICIAL VERSION<sup>1</sup>**

**PART ONE**

**I. GENERAL PROVISIONS AND DEFINITIONS**

**Article 1**

(1) This Law regulates the organisation, the scope of work, the modus operandi and the management of the Customs Administration, the customs powers, classification of job posts, as well as the authorisations and responsibilities in gathering, recording, processing and protection of data related to the activities of the Customs Administration<sup>2</sup>.

(2) This Law regulates the specifics of the rights, responsibilities and liabilities of the Customs officers in labour relations, the code of conduct, the awards and acknowledgements, as well as the financing of the Customs Administration.

**Article 2**

The terms used in this Law have the following meaning:

(1) *Customs officer* means an administrative<sup>3</sup> officer of the Customs Administration who is uniformed or has special duties and authorisations and who performs tasks in accordance with this Law, the Customs Law, the Law on Customs Tariff, the Law on Customs Measures for Protection of Intellectual Property, the Law on Excise Duties, the Law on Tax Procedure and other laws<sup>4</sup>;

(2) Operational instruction means guidelines and brought by the Director General of the Customs Administration intended for the customs officers on how to manage or perform a certain activity or procedure, as well as the expected work standards and conduct the Customs officers shall comply with;

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<sup>1</sup> The Consolidated version of the Law has been produced on basis of the text of the Law on the Customs Administration ("Official Gazette of the Republic of Macedonia" no. 46/2004, 81/2005, 107/2007, 103/2008, 64/2009, 105/2009, 48/2010, 158/2010, 53/2011 113/2012, 43/2014, 167/2014, 33/2015, 61/2015, 129/2015, 23/2016 and 120/2018. The Consolidated Version has no legal force.

Solely the texts published in the afore-mentioned Official Gazettes of the Republic of Macedonia shall be valid for legal purposes.

<sup>2</sup> Official Gazette of the Republic of Macedonia" no. 43/2014.

<sup>3</sup> Official Gazette of the Republic of Macedonia" no. 43/2014

<sup>4</sup> Official Gazette of the Republic of Macedonia" no. 105/2009

- (3) Customs measure means any measure taken under the competence of the Customs Administration in accordance with this Law and other laws;
- (4) The customs area of the Republic of Macedonia (hereinafter: customs area) includes the territory, territorial waters and the air space over the territories of the Republic of Macedonia, the state border, and in accordance with ratified international agreements may also stretch onto parts of the territories of other states. The customs area is marked with a customs line identical to the state border;
- (5) The *customs border belt* on land covers part of the customs area of the Republic of Macedonia, covering 15 km from the customs line into the territory of the Republic of Macedonia. Customs border belt on the bordering lakes is part of the customs area of the Republic of Macedonia that covers the customs line of the lake in width and up to 5 km inland from the shore of the lake. Where the border belt covers localities, the entire locality is considered to be within the border belt;
- (6) *Customs controlled zone* includes the customs border belt, customs warehouses, customs terminals, customs zones, free economic zones, technological industrial zones<sup>5</sup>, free warehouses, airports and lake ports open to international public traffic of persons and goods and all other places determined or approved by the Customs Administration with the purpose of carrying out customs supervision;
- (7) *Customs supervision* means general measures taken by the Customs Administration with a view to ensure application of customs rules and, where applicable, of other rules applicable to goods subject of customs supervision;
- (8) *Excise supervision* means measures taken by the Customs Administration with a view to ensure application of excise rules and, where applicable, of other rules applicable to excise goods subject of excise supervision<sup>6</sup>
- (9) *Customs control* means carrying out of concrete actions such as examination of goods, verification of the existence, authenticity and accuracy of the documents, inspection of business record books and other records, examination and search of means of transport, examination and search of personal luggage and other goods that the persons carry with them or on their person, carrying out official investigations and other similar activities with the purpose of providing compliance of customs rules and, where appropriate, other rules applicable on goods subject to customs supervision;
- (10) *Excise control* means carrying out of concrete actions such as examination of excise goods, verification of the existence, authenticity and accuracy of the documents, inspection

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<sup>5</sup> Official Gazette of the Republic of Macedonia" no. 120/2018

of business record books and other records, examination and search of premises and means of transport, carrying out official investigations and other similar activities with the purpose of providing compliance of excise rules<sup>7</sup>;

(11)<sup>8</sup> *Means of transportation* means any passenger and transport vehicle, including animal-drawn vehicles, trailer or semi-trailer, any aircraft, train, railway coach or wagon, any boat, ship, hovercraft, hydrofoil, as well as any other container and all other means that may be used for transportation of persons and goods and

(12)<sup>9</sup> *Technical supervision* means a measure of observing, inspection and documenting of movement of goods, transportation means and persons carried out with the application of audio, video and other technical devices.

(13)<sup>10</sup> Customs misdemeanours are misdemeanours determined with this Law, the Customs Law, the Law on Customs Measures for Protection of Intellectual Property Rights, Law on Excise Duties and/or other laws under which certain misdemeanours are the competence of the Customs Administration.<sup>11</sup>

(14)<sup>12</sup> Road border crossing facilities are state owned business and other facilities used for the needs of the road border crossing points, as well as locations for customs and inspection supervision.<sup>13</sup>

## II. ORGANISATION AND SCOPE OF WORK

### 1. Organisation and Management

#### Article 3

(1) The Customs Administration is a state administration authority within the Ministry of Finance with a status of a legal person.

(2) The Customs Administration carries out its powers throughout the entire territory of the Republic of Macedonia. The headquarters of the Customs Administration is located in Skopje.

#### Article 4

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<sup>6</sup> Official Gazette of the Republic of Macedonia" no. 120/2018

<sup>7</sup> Official Gazette of the Republic of Macedonia" no. 120/2018

<sup>8</sup> Official Gazette of the Republic of Macedonia" no. 120/2018

<sup>9</sup> Official Gazette of the Republic of Macedonia" no. 120/2018

<sup>10</sup> Official Gazette of the Republic of Macedonia" no. 120/2018

<sup>11</sup> Official Gazette of the Republic of Macedonia" no. 107/2009 and 105/2009

<sup>12</sup> Official Gazette of the Republic of Macedonia" no. 120/2018

<sup>13</sup> Official Gazette of the Republic of Macedonia" no. 103/2008

(1) The symbol of the Customs Administration is a circle with two insignia – “*Republic of Macedonia Customs Administration*” at the top, and ЦАРИНА-CUSTOMS at the bottom. The symbol consists of a golden frame with a red median, symbolizing the border crossing points and three golden-coloured cords over and below the median, symbolising the movement of people and goods through the customs line.

(2) The Minister of Finance, on proposal by the Director General, shall prescribe the form, contents and manner of use of the symbol referred to in paragraph (1) of this Article.

#### **Article 5**

(1) The Customs Administration conducts its activities through:

- 1) Headquarters and
- 2) Customs Houses.

(2) The Headquarters coordinates and manages the customs and other powers on the entire territory of the Republic of Macedonia, as laid down by law<sup>14</sup>.

(3) The customs houses are established when so dictated by the scope and the structure of the goods and passenger circulation with foreign countries.

## **2. Director General**

#### **Article 6**

(1) The Customs Administration is managed by a Director General who is appointed and discharged by the Government of the Republic of Macedonia.<sup>15</sup>

(2) The Director General has a deputy who is appointed and discharged by the Government of the Republic of Macedonia.<sup>16</sup>

(3) The Director General and the Deputy Director General are appointed upon proposal of the Minister of Finance after a completed public call for selection, published in three daily newspapers available on the entire territory of the Republic of Macedonia, one of which is in the language spoken by a minimum 20% of the population who speak an official language different than the Macedonian language, and have a mandate of 4 years.<sup>17</sup>

(4) For his/her personal work and the work of the Customs Administration the Director General and the Deputy Director General respond before the Government of the Republic of Macedonia and the Minister of Finance.<sup>18 19</sup>

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<sup>14</sup> Official Gazette of the Republic of Macedonia” no. 103/2008

<sup>15</sup> Official Gazette of the Republic of Macedonia” no. 43/2014

<sup>16</sup> Official Gazette of the Republic of Macedonia” no. 43/2014

<sup>17</sup> Official Gazette of the Republic of Macedonia” no. 43/2014

<sup>18</sup> Official Gazette of the Republic of Macedonia” no. 48/2010

(3) Candidates who meet the following criteria can be appointed Director General and Deputy Director General:<sup>20</sup>

- 1) is a national of the Republic of Macedonia;
- 2) there is no executive court verdict imposing prohibition of doing a profession, activity or duty as penalty or misdemeanour sanction against him/her at the time of appointment<sup>21</sup>;
- 3) has acquired 240 credits according to ECTS or VII/1 degree of education;<sup>22</sup>
- 4) has a minimum of 5 years work experience;
- 5) holds one of the following internationally recognized certificates for active command of the English language, not older than 5 years:
  - TOEFL IBT (minimum 74 points)
  - IELTS – minimum 6 points,<sup>23</sup>
  - ILEC (Cambridge English: Legal) – minimum B2,<sup>24</sup>
  - FCE (Cambridge English: First) – passed,<sup>25</sup>
  - BULATS – minimum 60 points or
  - APTIS – minimum B2 level.<sup>26 27</sup>

#### **Article 7<sup>28</sup>**

- (1) The Director General represents the Customs Administration.
- (2) The Director General decides upon the labour relations rights of the employees.
- (3) The Director General has the power to initiate procedure for identification of cases of inappropriate behaviour or violation of the duties by the Customs Administration employees and to initiate procedure for determination of disciplinary responsibility.
- (4) The Director General is competent for adoption of written operational instructions related to all areas of customs and excise operations.<sup>29</sup>
- (5) The Director General delegate in writing any of his/her powers to category B and V customs officers, in accordance with the law.

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<sup>19</sup> Official Gazette of the Republic of Macedonia" no. 43/2014

<sup>20</sup> Official Gazette of the Republic of Macedonia" no. 48/2010

<sup>21</sup> Official Gazette of the Republic of Macedonia" no. 43/2014

<sup>22</sup> Official Gazette of the Republic of Macedonia" no. 43/2014

<sup>23</sup> Official Gazette of the Republic of Macedonia" no. 23/2016

<sup>24</sup> Official Gazette of the Republic of Macedonia" no. 23/2016

<sup>25</sup> Official Gazette of the Republic of Macedonia" no. 23/2016

<sup>26</sup> Official Gazette of the Republic of Macedonia" no. 23/2016

<sup>27</sup> Official Gazette of the Republic of Macedonia" no. 120/2018

<sup>28</sup> Official Gazette of the Republic of Macedonia" no. 167/2014

<sup>29</sup> Official Gazette of the Republic of Macedonia" no. 23/2016

### 3. Job Post Classification and special conditions for the job posts<sup>30</sup>

#### Article 8

(1) The job posts of the customs officers are classified into three categories<sup>31</sup>:

- category B - managerial customs officers,<sup>32</sup>
- category C - expert customs officers, and<sup>33</sup>
- category D – assistant expert customs officers.

(2) Each category referred to in paragraph (1) of this Article has several levels of customs officers' job posts.<sup>34</sup>

#### Article 8-a<sup>35</sup>

(1) The following levels of job posts and titles of managerial customs officers are determined in category B:

- level B<sub>1</sub> Director of Sector, Head of Customs House, Advisor to the Director General;
- Level B<sub>2</sub> Assistant Head of Customs House and Head of department
- Level B<sub>3</sub> – Head of Customs Office and Head of Unit and
- Level B<sub>4</sub> - Head of Section, Shift Leader-a and Shift Leader -b<sup>36</sup>

(2) Managerial customs officers shall meet the following job post conditions:

1) required professional qualifications:

- for levels B<sub>1</sub> and B<sub>2</sub> – VI A level of qualifications according to the Macedonian framework of qualifications and minimum of 240 credits acquired according to ECTS or completed VII/1 level and
- for level B<sub>3</sub> and B<sub>4</sub> - VI A level of qualifications according to the Macedonian framework of qualifications and minimum of 240 credits acquired according to ECTS or completed VII/1 level, except for level B<sub>4</sub> for the job post Shift Leader-b with level of qualifications of minimum college education or secondary school education.<sup>37</sup>

2) required work experience:

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<sup>30</sup> Official Gazette of the Republic of Macedonia" no. 43/2014

<sup>31</sup> Official Gazette of the Republic of Macedonia" no. 43/2014

<sup>32</sup> Official Gazette of the Republic of Macedonia" no. 43/2014

<sup>33</sup> Official Gazette of the Republic of Macedonia" no. 43/2014

<sup>34</sup> Official Gazette of the Republic of Macedonia" no. 43/2014

<sup>35</sup> Official Gazette of the Republic of Macedonia" no. 43/2014

<sup>36</sup> Official Gazette of the Republic of Macedonia" no. 167/2014

<sup>37</sup> Official Gazette of the Republic of Macedonia" no. 167/2014

- for level B1 –minimum of four years work experience in customs matters or in the profession,<sup>38</sup>
  - for level B2 –minimum of three years work experience in customs matters or in the profession,
  - for level B3 –minimum of three years work experience in customs matters or in the profession,
  - for level B1 –minimum of two years work experience in customs matters or in the profession;
- 3) required general work competences for all category B levels of the General Work Competences Framework and
- 4) required special work competences:
- for all levels – active computer knowledge of office work computer programs ,
  - for all levels – other special work competences required for the relevant job post laid down in the Customs Administration Job Post Systematization,
  - For levels B1 and B2 – knowledge of one of the three most widely spoken languages of the European Union (English, French, German).<sup>39 40</sup>

**Article 8-b**<sup>41 42</sup>

(1) The following levels of jobs and positions of professional customs officers shall be established within the category C:

- Level C1 Chief Inspector, Internal Investigation Department Inspector, Internal Inspection Department Inspector,<sup>43</sup>Senior Advisor, Senior Customs Controller, System Engineer,<sup>44</sup>
- Level C2 Senior Inspector,
- Level C3 Advisor and System Engineer Administrator, and<sup>45</sup>
- Level C4 Senior Customs Officer, Customs Officer, Inspector,<sup>46</sup> Customs Dog Guide, Junior Inspector and Inspector.

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<sup>38</sup> Official Gazette of the Republic of Macedonia" no. 167/2014

<sup>39</sup> Official Gazette of the Republic of Macedonia" no. 23/2016

<sup>40</sup> Official Gazette of the Republic of Macedonia" no. 120/2018

<sup>41</sup> Official Gazette of the Republic of Macedonia" no. 43/2014

<sup>42</sup> Official Gazette of the Republic of Macedonia" no. 167/2014

<sup>43</sup> Official Gazette of the Republic of Macedonia no. 120/18

<sup>44</sup> Official Gazette of the Republic of Macedonia no. 167/2014

<sup>45</sup> Official Gazette of the Republic of Macedonia no. 167/2014

<sup>46</sup> Official Gazette of the Republic of Macedonia no. 120/18

(2) Professional customs officers shall meet the following specific requirements for their workplace:

1) Professional qualifications including:

- Regarding C1 level of qualifications, VI A under the Macedonian Qualifications Framework and at least 240 credits acquired according to ECTS or VII/1 degree completed,

- Regarding C2 and C3 levels of qualifications, VI B under the Macedonian Qualifications Framework and at least 180 credits acquired according to ECTS or VII/1 degree completed, and

- Regarding C4 level of qualifications, at least college or secondary education completed, except for the position of Senior Customs Officer, where the level of qualifications VI B under the Macedonian Qualifications Framework shall be required and at least 180 credits acquired according to ECTS or VII/1 degree completed.<sup>47</sup>

2) Work experience including:

- Regarding C1 level, at least three years of work experience in customs affairs or in the profession,

- Regarding C2 level, at least two years of work experience in customs affairs or in the profession,

- Regarding C3 level, at least one year of work experience in customs affairs or in the profession, and

- Regarding C4 level, no work experience shall be required<sup>48</sup>;

3) General work competencies shall be required for all category C levels as per the General Work Competencies Framework, and

4) Specific work competencies:

- Regarding all levels, active knowledge of office administration computer programs,

- Regarding all levels, other specific work competencies as defined in the Job Systematization Act for the respective workplace, and

- Regarding all levels, knowledge of one of the three most commonly used languages in the European Union (English, French, German).<sup>49</sup>

#### **Article 8-c<sup>50</sup>**

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<sup>47</sup>Official Gazette of the Republic of Macedonia no. 167/2014

<sup>48</sup>Official Gazette of the Republic of Macedonia no. 167/2014

<sup>49</sup>Official Gazette of the Republic of Macedonia no. 120/18

<sup>50</sup>Official Gazette of the Republic of Macedonia no. 43/2014



(1) The following levels of jobs and positions of professional assistant customs officers shall be established within the category D:

- D1 - Operator,
- D2 - Administrative Operator,
- D3 –support and coordination technician and IT Networks Operator,

(2) Professional assistant customs officers shall meet the following requirements specific to the respective workplace:

- 1) Professional qualifications for all levels: at least college or secondary education;<sup>51</sup>
- 2) Work experience including:

- Regarding D1 level, at least three years of work experience in customs affairs or in the profession,

- Regarding D2 level, at least two years of work experience in customs affairs or in the profession,

- Regarding D3 level, at least one year of work experience in customs affairs or in the profession, and

- Regarding D4 level, some or no work experience in customs affairs or in the profession shall be required.

- 3) General work competencies shall be required for all category D levels as per the General Work Competencies Framework, and

- 4) Specific work competencies as follows:

- Regarding all levels, active knowledge of office administration computer programs,

- Other specific work competencies as defined in the Job Systematization Act for the respective workplace, and

- Active knowledge of one of the three most commonly used languages in the European Union (English, French, German).

#### **4. General Powers**

##### **Article 9**

The Customs Administration carries out the activities that are under its competence in accordance with this Law, the Customs Law, the Customs Tariff Law, the Law on Excise Duties, the Law on Tax Procedure, the Law on Customs Measures for Protection of Intellectual Property Rights and other laws governing the importation, exportation and

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<sup>51</sup>Official Gazette of the Republic of Macedonia no. 167/2014

transit of goods, as well as for the performance of all other activities that are vested under its competence with other laws.<sup>52</sup>

#### Article 10

(1) The general powers of the Customs Administration are:

- 1) to conduct customs and excise<sup>53</sup> supervision;
- 2) to conduct customs and excise<sup>54</sup> control;
- 3) customs clearance of goods;
- 4) to conduct customs and excise<sup>55</sup> control, investigation and intelligence measures for the purpose of prevention, detection and investigation of customs offences and crimes;
- 5) to take measures and activities for the purposes of detection and criminal investigations of customs related crimes, prevention of further consequences of such crimes, apprehension and prosecution of their perpetrators, gathering evidence, other measures and activities that can be useful for the uninterrupted realization of criminal procedure, ex officio or under order of a public prosecutor by executing the competences of judicial police,<sup>56</sup>
- 6) to conduct misdemeanour procedures, impose misdemeanour sanctions and special misdemeanour measures for a committed customs offences, pursuant the law, as well as to initiate procedures for crimes determined by law;<sup>57</sup>
- 7) to calculate and collect or refund excise duties<sup>58</sup> export and import duties, taxes and other public levies and fees on importation, exportation or transit of goods, as well as to conduct forcible collection of the above in accordance with law;
- 8) to conduct the customs-administrative procedure in first degree and to adopt administrative acts such as decisions, orders, licenses, permits, prohibitions, authorisations or other acts;<sup>59</sup>
- 9) to control the bringing in and taking out of cash, monetary gold and movable means of payment through the customs line of the Republic of Macedonia;<sup>60</sup>

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<sup>52</sup> Official Gazette of the Republic of Macedonia no. 105/2009

<sup>53</sup> Official Gazette of the Republic of Macedonia no. 120/2018

<sup>54</sup> Official Gazette of the Republic of Macedonia no. 120/2018

<sup>55</sup> Official Gazette of the Republic of Macedonia no. 120/2018

<sup>56</sup> Official Gazette of the Republic of Macedonia no. 53/2011

<sup>57</sup> Official Gazette of the Republic of Macedonia no. 107/2007

<sup>58</sup> Official Gazette of the Republic of Macedonia no. 120/2018

<sup>59</sup> Official Gazette of the Republic of Macedonia no. 23/2015

<sup>60</sup> Official Gazette of the Republic of Macedonia no. 120/2018

- 10) to control the importation, exportation and transit of goods for which special measures are prescribed in the interest of security and public morality, protection of people's health and lives, animals and plants, protection of the environment, protection of items under temporary protection or cultural heritage or natural rarities, protection of copyright and other related rights and industrial property rights, as well as other measures of commercial policy prescribed by law;
- 11) to organise the customs information system and provide data on import and export and excise procedures<sup>61</sup> for statistical purposes;
- 12) to organise and conduct control of the professional liability of the employees;
- 13) to organise and conduct training, testing of the knowledge and professional skills of Customs officers, as well as human resource management;
- 14) to provide expert assistance for the application of the customs and excise<sup>62</sup> regulations for the purpose of which it organises seminars and public platforms with the right for compensation;
- 15) to conduct storage and safe-keeping of goods, as well as procedure of sale of confiscated, abandoned or discovered goods;<sup>63</sup>
- 16) to carry out monitoring of customs goods with compensation of costs;
- 17) to conduct chemical-technological examination of goods with compensation of costs;
- 18) to cooperate with other state authorities;
- 19) to cooperate with foreign customs administrations and international organisations;
- 20) to manage, organize and maintain the premises at road border crossing points;<sup>64</sup>
- 21) determination of working environment, customs terminal where the goods on freight motor vehicles is presented for inspection and is examined by the customs authorities, the location of which corresponds to the location of the customs offices<sup>65</sup>
- 22) to issue documents for issues subject to official record-keeping;<sup>66 67</sup>
- 23) to exercise other powers prescribed by this Law and other law.<sup>68</sup>

#### **Article 10-a<sup>69</sup>**

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<sup>61</sup> Official Gazette of the Republic of Macedonia no. 120/2018

<sup>62</sup> Official Gazette of the Republic of Macedonia no. 120/2018

<sup>63</sup> Official Gazette of the Republic of Macedonia no. 120/2018

<sup>64</sup> Official Gazette of the Republic of Macedonia no. 103/2008

<sup>65</sup> Official Gazette of the Republic of Macedonia no. 105/2009

<sup>66</sup> Official Gazette of the Republic of Macedonia no. 105/2009

<sup>67</sup> Official Gazette of the Republic of Macedonia no. 105/2009

<sup>68</sup> Official Gazette of the Republic of Macedonia no. 105/2009

(1) Customs Misdemeanor Body shall have the sole competence with regard to the initiation of legal proceedings and imposition of misdemeanor sanctions and special misdemeanor measures for customs offenses committed.

(2) Customs Misdemeanor Body under paragraph (1) hereof shall be the Customs Administration, while the procedure before the Misdemeanor Body shall be carried out by the Commission deciding on misdemeanors.

(3) The President and the Members of the Commission under paragraph (2) hereof shall be customs officers, i.e. law graduates, while the President shall be a graduate lawyer who has passed the bar exam.

(4) The Commission under paragraph (2) hereof shall be a separate Customs Administration organizational unit defined by the Act as in Articles 11 and 51 paragraph (2) of this Law. The provisions of Article 67 paragraph (3) of this Law shall apply to the President and Members of this Commission.

(5) The Act referred to in paragraph (4) hereof shall also define the manner of operation and the procedure for the adoption of decisions by the Commission under paragraph (2) hereof.

(6) The Commission under paragraph (2) hereof shall, while deciding in misdemeanor proceedings, also apply and adopt its decisions in accordance with the Law on Misdemeanors and the Law on Administrative Procedure.

(7) The Commission under paragraph (2) hereof shall keep records of offense perpetrators, the type of sanctions imposed and decisions made in the manner prescribed by the Head of the Misdemeanor Body.<sup>7071</sup>

(8) The decisions of the Misdemeanor Body imposing misdemeanor sanctions may be appealed before the State Commission deciding in the second instance in the area of inspection and misdemeanor proceedings.<sup>72</sup>

#### **Article 10-b<sup>73</sup>**

The Customs Administration may, on its website, download from courts' websites the judicial decisions in the area of customs duties, other import and export duties, taxes and other public charges and fees collected at import, export or transit of goods, in accordance with the Law on Case Management in Courts.

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<sup>69</sup>Official Gazette of the Republic of Macedonia no. 107/2007

<sup>70</sup>Official Gazette of the Republic of Macedonia no. 158/2010

<sup>71</sup>Official Gazette of the Republic of Macedonia no. 129/2015

<sup>72</sup>Official Gazette of the Republic of Macedonia no. 129/2015

<sup>73</sup>Official Gazette of the Republic of Macedonia no. 23/2016

#### **Article 11<sup>74</sup>**

The Director General of the Customs Administration shall adopt the Act on the internal organization and the Act on the systematization of job posts upon previous approval by the Ministry of Information Society and Administration and the Ministry of Finance.

### **III. CUSTOMS POWERS**

#### **1. General Principles of Customs Powers**

#### **Article 12**

The Customs Administration exercises its powers on the basis of the Constitution and laws and international agreements ratified by the Republic of Macedonia.

#### **Article 13**

In exercising its powers, the Customs Administration and the customs officers shall not discriminate against any person on any ground, such as: sex, race, skin colour, national or social origin, political and religious opinion, property and social status or other status.

#### **Article 14**

(1) Customs measures are exercised with all due efficiency and expediency. The customs measures shall be justifiable in relation to the importance and urgency of the duty and the factors affecting the overall assessment of the situation.

(2) Customs measures are taken in a manner that does not cause greater damage or inconvenience than is necessary for the execution of a certain duty.

(3) Certain customs measures shall not be carried out if their carrying out could lead to inappropriate consequences compared to the sought outcome.

#### **Article 15**

(1) The person, or his/her representative, subject of a certain customs measure affecting his/her personal freedom, must immediately be informed of the grounds for the customs measure, unless this is impossible due to the person's condition or other circumstances.

(2) The right to be informed of the grounds for the customs measure affecting their rights also belongs to other persons than the persons from paragraph (1) of this Article as soon as it is possible to do so without jeopardizing the enforcement of the customs measure, unless otherwise regulated with this or any other law.

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<sup>74</sup> Official Gazette of the Republic of Macedonia no. 23/2016

## **Article 16**

The powers of the Customs Administration and the customs officers, laid down with this Law or any other law shall apply on the entire customs area.

## **2. Powers of the Customs Administration**

### **Article 17**

The Customs Administration may, in accordance with the conditions prescribed with this Law or other law, undertake all measures and activities it considers necessary to ensure correct application of the customs and excise<sup>75</sup> legislation.

### **Article 18**

The Customs Administration may require assistance of the Ministry of Interior in the enforcement of the provisions of this Law or other laws the application of which is under the competence of the Customs Administration.

### **Article 19**

(1) State administration authorities and other state authorities, as well as authorities of the municipalities and the city of Skopje shall provide all necessary assistance within their powers for the application and carrying out of a certain customs measure.

(2) On the basis of a received request, the Customs Administration shall give assistance to the authorities referred to in paragraph (1) of this Article in the enforcement of the laws the application of which is under their competence.

(3) The decisions on requesting and giving assistance shall be adopted by the Customs Administration, unless otherwise regulated by this or other Law.<sup>76</sup>

### **Article 20**

(1) State administration authorities and other state authorities, as well as authorities of the municipalities and the city of Skopje shall inform the Customs Administration of the perpetrated offences and crimes or offences and crimes that are to be perpetrated in the

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<sup>75</sup> Official Gazette of the Republic of Macedonia no. 120/2018

<sup>76</sup> Official Gazette of the Republic of Macedonia no. 23/2016

area of customs operations for the purposes of taking due action by customs officers in accordance with this law<sup>77</sup>.

#### **Article 21**

(1) The Customs Administration, based on a written request shall have the right to obtain without compensation any information and documents necessary for the execution of official duties from the state administration authorities and other state authorities, as well as authorities of the municipalities and the city of Skopje, notwithstanding the obligation to observe secrecy, unless the use of information as evidence is prohibited or restricted by law.<sup>78</sup>

(2) The Customs Administration shall cooperate and exchange information with state administration authorities and other state authorities, as well as authorities of the municipalities and the city of Skopje and with public or private organisations.

#### **Article 22**

The Customs Administration shall cooperate with the customs administrations of other countries in the field of customs operation in the discovery and prevention of customs offences and customs crimes, training of Customs officers, upgrading technical development and other, all in accordance with ratified international agreements.

#### **Article 23**

The Customs Administration may for the purpose of carrying out of its powers use technical equipment, official cars equipped with light and sound signals, and dogs and other animals for drug detection, explosive means and other.

#### **Article 24**

(1) The Customs Administration has the right to gather reports or information concerning customs offences or customs crimes from any person, to collect and analyze them for the purpose of detection and prevention of customs offences or customs crimes.

(2) The Customs Administration may determine and pay compensation to the person providing information referred to in paragraph (1) of this Article of which it informs the Minister of Finance. The identity of the person providing such information shall be strictly confidential in all circumstances.

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<sup>77</sup> Official Gazette of the Republic of Macedonia no. 120/2018

<sup>78</sup> Official Gazette of the Republic of Macedonia no. 23/2016

### **Article 25**

The Customs Administration has the right, after giving prior notice, to carry out technical supervision in order to prevent customs offences and customs crimes, as well as to identify a suspect for a committed customs offence or a customs crime in the customs controlled zone and in other such places or premises for the supervision of which the Customs Administration is authorised.

## **3. Powers of the customs officers**

### **Article 26**

(1) The customs officers carry out the work of the customs service in their official or civilian outfit in cases and in a manner determined under an Act adopted by the Director General. The official outfit is a customs uniform with the prescribed symbol of the Customs Administration.

(2) The customs officers shall, upon request show their official identification document, and when carrying out their work in civilian outfit, they shall show their official identification document before taking any official action, except when identification might jeopardise the conducting of the customs measure.

(3) The official identification card that is issued by the Director General shall have a validity of 6 years.<sup>79</sup>

(4) After the expiry of the validity of the identification card, the customs officer shall return the identification card to the issuing authority and shall be issued a new one.<sup>80</sup>

(5) In case of cancellation of the employment contract, i.e. suspension, the customs officer shall return the identification card to the issuing authority.<sup>81</sup>

(6) In case of after a suspension a decision for re-employment is brought the customs officer shall be re-issued an identification document.<sup>82</sup>

(3) The Minister of Finance upon proposal by the Director General shall prescribe the official outfit, rank markings, manner of assignment and use, as well as the form, contents and manner of issuing and forfeiture of the official identity card of the customs officers.<sup>83</sup>

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<sup>79</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>80</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>81</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>82</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>83</sup> Official Gazette of the Republic of Macedonia no. 43/2014



### **Article 27**

The customs officers have the power to undertake all measures and actions for discovery and prevention of customs crimes in all fields of customs operation in accordance with the Law on Criminal Procedure and the Law on Misdemeanours.

#### **Article 27-a<sup>84</sup>**

(1) If required and ordered by the public prosecutor, the public prosecutor shall be assigned customs officers to work for him/her in the area of undertaking measures and activities for detection of crimes, apprehension and reporting of crime perpetrators, provision of evidence of such crimes and other measures that enable criminal proceedings in accordance with the authorizations given to the Customs Administration under the Criminal Procedure Law.

(2) The manner of exercising the rights, obligations and responsibilities determined by law and the Collective Bargaining Agreement on the part of customs officers assigned as required to the public prosecutor, shall be governed by a Memorandum of Understanding signed between the Customs Administration and the Public Prosecution.

#### **Article 27-b<sup>85</sup>**

(1) Regarding any customs officer who is assigned as required by the public prosecutor, a decision thereof shall be rendered by the Customs Administration Director.

(2) The customs officer assigned as required by the public prosecutor shall realize his/her rights, obligations and responsibilities under the conditions and procedures established by this Law and the Collective Bargaining Agreement, and in the manner prescribed by the regulations adopted in line with this Law.

(3) The implementation of the procedures for exercising the rights, obligations and responsibilities of the customs officer assigned as required by the public prosecutor shall be based on a request or initiative by the public prosecutor.

(4) The assigned customs officer may not be assigned to another job while being assigned to work for the public prosecutor.

#### **Article 27-c<sup>86</sup>**

(1) Regarding any customs officer assigned to work for the Public Prosecution's Investigation Center, a decision on such assignment shall be made by the Director General upon a prior approval by the Minister of Finance.

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<sup>84</sup>Official Gazette of the Republic of Macedonia no. 43/2014

<sup>85</sup>Official Gazette of the Republic of Macedonia no. 43/2014

(2) The customs officer assigned to the Public Prosecution's Investigation Center shall exercise his/her rights, obligations and responsibilities under the conditions and procedures established by this Law and the Collective Bargaining Agreement, and in the manner prescribed by the regulations adopted pursuant to law.

(3) The implementation of the procedures for exercising the rights, obligations and responsibilities of the customs officer assigned to the Public Prosecution's Investigation Center shall be based on a proposal, request or initiative by the public prosecutor.

#### **Article 28**

A customs officer may undertake any operative actions for gathering information and evidence for perpetrated customs offences and crimes on the entire customs area.

#### **Article 28-a<sup>87 88</sup>**

<sup>89</sup>(1) After detecting a custom misdemeanor, the customs officer shall make a report containing the material elements of the act giving rise to the legal qualification of such misdemeanor, including the time, place and manner of perpetration, description of the act and the persons found on the spot. The report shall be signed by both the customs officer and offender.

(2) Immediately upon completion of the report referred to in paragraph (1) hereof, the customs officer shall propose the offender one of the expedited procedures by issuing a mandatory or misdemeanor payment order, under the law stipulating the customs misdemeanor. The receipt of the mandatory or misdemeanor payment order shall be confirmed by the perpetrator by affixing his/her signature.

(3) If the offender does not voluntarily pay the fine within eight days of receiving the mandatory payment order, such mandatory payment order shall become enforceable and the customs officer shall submit it to the competent enforcement authority for its enforcement.

(4) Upon receiving and signing the misdemeanor payment order, the offender shall pay the fine within eight days of receipt of such misdemeanor payment order, whereby half of the fine shall be paid, on which right the offender shall be advised in the legal remedy. If the offender does not pay the fine within this period, the customs officer shall file a request for the initiation of misdemeanor proceedings to the competent misdemeanor authority referred to in Article 10-a of this Law.

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<sup>86</sup>Official Gazette of the Republic of Macedonia no. 43/2014

<sup>87</sup>Official Gazette of the Republic of Macedonia no. 107/2007

<sup>88</sup>Official Gazette of the Republic of Macedonia no. 129/2015

<sup>89</sup>Official Gazette of the Republic of Macedonia no. 120/2018

(5) Any offender that could avoid paying the fine due to his/her departure from the country in order to stay abroad shall immediately pay the fine imposed by the mandatory or misdemeanor payment order.

(6) The customs officer responsible for initiating misdemeanor proceedings may temporarily seize the offender's passport or foreigner's identity card and driving license, until proof is supplied that the fine has been paid, but no longer than eight days as from the date of seizure.

(7) Authorized customs officers shall keep records on conducted expedited procedures referred to in paragraph (2) hereof in accordance with the act under Article 10-a and paragraph (7) of this Law.

(8) The form and content of the report under paragraph (1) hereof and the mandatory or misdemeanor payment order under paragraph (2) hereof shall be prescribed by the Minister of Finance."

#### **Article 29**

(1) A customs officer may identify and check the identity of each person:

- 1) entering, leaving or about to leave the customs area and
- 2) entering, leaving or remaining in a customs controlled zone,

(2) A customs officer may require the person referred to paragraph (1) of this Article to:

- 1) answer any question asked by the customs officer related to his/her luggage, any item contained therein or carried with him/her;
- 2) present for inspection his/her personal luggage and any item contained therein for examination, and
- 3) answer any question asked by the customs officer in respect to his/her journey and related circumstances.

#### **Article 30**

(1) A Customs officer may conduct a search on:

- 1) a person entering, leaving or about to leave the customs area, and
- 2) a person entering, leaving or remaining in a customs controlled zone,

provided the customs officer has reasonable grounds to suspect that the person has secreted in his/her clothing or inside his/her body:

- 1) customs goods, prohibited goods or goods liable to seizure;
- 2) evidence relating to any such goods, or

3) anything that is or might be evidence of contravention or probable contravention of the Custom Law or other law the enforcement of which is under the competence of the Customs Administration.

(2) When the Customs officer has reasonable grounds to suspect that the person to be subjected to a search in accordance with this Article, has secreted inside his/her body or body orifices any goods referred to in paragraph (1) of this Article, the customs officer may detain the person and without delay produce him/her to a medical practitioner in a public health service institution who shall carry out an intimate search.

(3) Prior to the search from paragraph (1) of this Article, the customs officer shall normally call upon another customs officer as to attend the search in the role of a witness.

(4) The search of the person is conducted in a separate room by a customs officer of the same sex. If there is no customs officer of the same sex at the place the search is to take place, the customs officer may authorise any other suitable person of the same sex to perform the search and/or to attend the search in role of a witness.

(5) A search of a juvenile under the age of 14 may only be carried out in the presence of his/her parents or guardians, or, if they are unavailable, in the presence of a social worker.

(6) A report on the completed search shall be prepared and signed by the officer, the searched person and the witness. Where the searched person or the witness refuses to sign, the customs officer shall note this in the report, and if possible, mention the reasons for the refusal.

#### **Article 31**

A customs officer may search persons in accordance with the provisions of Article 30 of this Law in a manner that involves little or no physical contact between the Customs officer and the person being searched. The search may be conducted by using an aid such as a dog, mechanical and electrical means, x-ray or other similar means.

#### **Article 32**

(1) A customs officer may stop and search and examine:

- 1) any means of transportation entering, leaving or about to leave the customs area;
- 2) any means of transportation entering, remaining in or leaving a customs controlled zone, and

3) any means of transportation, not being a means of transportation to which item 1) and/or item 2) of this paragraph apply, throughout the entire customs area for which a customs officer has reasonable ground to suspect that it:

a) is carrying customs goods, excise goods<sup>90</sup>, prohibited goods or goods liable to seizure;

b) has been, or is about to be, involved in contravention of the Customs Law or any other law the enforcement of which is under the competence of the Customs Administration and may, applying such force as is appropriate to the circumstances, enter every part of the means of transportation and open all sections, compartments or other places, and examine the goods on the means of transportation.

(2) Any person transporting or carrying any of the goods listed in paragraph (1) of this Article, shall answer all questions asked by the Customs officer related to the means of transportation and the goods being transported or carried, and shall, if so required by the Customs officer, produce the goods for inspection, produce documentary evidence and enable the examination of the goods in question.

(3) If necessary, the Customs officer may require the person from paragraph (2) to transfer the transportation means to an appropriate place for examination and search. The costs incurred in relation to the transfer of the transportation means are not borne by the Customs Administration.

(4) The Customs officer may, where the circumstances so warrant, interview all persons who may have any information on the matters and circumstances described in paragraph (1) and paragraph (2) of this Article.

### **Article 33**

(1) A customs officer may examine, weigh, analyse or test the customs goods and excise goods<sup>91</sup>, and may for that purpose open, or cause to be opened, any packages in which such goods are contained or are suspected to be contained.

(2) If necessary, the customs officer may request the declarant or the owner of the customs goods i.e. excise goods<sup>92</sup> to organise the transport of the goods to an appropriate place for unloading, loading, transshipment, unpacking and packing of goods. The costs incurred with the transport shall be borne by the declarant or the owner of the customs goods.

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<sup>90</sup> Official Gazette of the Republic of Macedonia no. 120/2018

<sup>91</sup> Official Gazette of the Republic of Macedonia no. 120/2018

<sup>92</sup> Official Gazette of the Republic of Macedonia no. 120/2018

#### **Article 34**

(1) A customs officer may examine any mail delivery that has been imported, and open, or cause to be opened, any such mail delivery that he/she has reasonable ground to suspect contains any goods the importation of which is prohibited in accordance with law the enforcement of which is under the competence of the Customs Administration. The customs officer may cause an imported mail delivery that weighs thirty grams or less to be opened only in the presence and by the person it is addressed to or any other person authorised by him/her. However, under no circumstance may the confidentiality of the mail delivery be violated. Post office officials must report to the customs authority all deliveries subject to the application of this Law or other law.

(2) In respect of the goods under paragraph (1) of this Article, the customs officers may exercise all powers prescribed in Article 33 of this Law.

#### **Article 35**

The Customs officer may examine other goods except the ones referred to in Article 33 of this Law and take all measures referred to in Article 37 of this Law if there are reasonable grounds to suspect that any provisions of the Customs Law or of another law the enforcement of which is under the competence of the Customs Administration were violated or may be violated in regard of such goods

#### **Article 36**

(1) The Customs officer may within the customs area require any person carrying or holding goods subject to the measures of trade policy or goods subject to customs or excise<sup>93</sup> debt payment, to produce the following evidence:

- 1) that the goods were obtained or produced within the customs area, or
- 2) that the goods were imported in accordance with the laws and other regulations and that the goods are handled in conformity with the provisions of the Customs Law and any other law the application of which is under the competence of the Customs Administration.

(2) If no such evidence is produced upon initial request by the Customs officer, the goods shall be subject to the measures of Article 37 of this Law.

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<sup>93</sup> Official Gazette of the Republic of Macedonia no. 120/2018

(3) The Minister of Finance, upon proposal by the Director General, shall prescribe with a special act the list of goods referred to in paragraph (1) of this Article.

### **Article 37**

(1) A customs officer may detain the goods being imported or exported until he/she assesses that the goods have been handled in accordance with the Customs Law and any other laws the enforcement of which is under the competence of the Customs Administration. On the excise territory, a customs officer may also detain excise goods subject to excise procedures laid down in the Law on Excise Duties and whose supervision and control is the competence of the Customs Administration.<sup>94</sup> A customs officer may also detain the documents pertaining to these goods.

(2) A customs officer may seize any goods or means of transportation liable to seizure in accordance with the Customs Law or any other law the enforcement of which is under the competence of the Customs Administration, as well as the documents pertaining to those goods and means of transportation.

(3) Where the seizure of such goods or means of transportation or documents is not practicable, a customs officer may, in written or oral form, order the owner of the goods, his/her authorised representative or any other person not to move, expropriate on any legal grounds, or undertake any other action with the goods, means of transportation or documents without prior approval by the customs officer.

(4) The person that is responsible for the goods, the means of transportation or documents referred to in the previous paragraph of this Article shall keep them in a safe, secure place until a final decision is taken whether or not the goods and/or means of transportation or documents are to be confiscated. The customs officer may at any time conduct customs supervision on the goods, means of transportation and documents.

(5) When a customs officer detains or seizes documents, goods or means of transportation, he/she shall give a receipt to the person or persons from whom the documents, goods or means of transportation were detained or seized. The Director General shall prescribe the form of the receipt.

(6) The costs incurred in respect of the provisions of paragraphs 1), 2), 3), 4) and 5) of this Article shall be borne by the persons referred to in those paragraphs.

### **Article 38**

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<sup>94</sup> Official Gazette of the Republic of Macedonia no. 120/2018

(1) A customs officer, in order to verify the accuracy of the particulars contained in the declaration, may inspect the commercial registers, book-keeping records, contracts, records and whatever data relating to the import or export or other customs procedure in respect of the goods concerned or to subsequent commercial operations involving those goods. Such inspections may be carried out at the premises of the declarant or the premises of any other person directly or indirectly involved in the said activities in a business capacity or the premises of any other person in possession of the said document and data for business purposes. A customs officer may also examine the goods where it is still possible.<sup>95</sup>

(1)

(2) A customs officer may, from the person lodging the declaration or from any other person mentioned in the paragraph (1) of this Article, request the commercial registers, book-keeping records, contracts, records or whatever data may be required, and that person shall within the determined period and the determined place provide the customs officer with all the requisite documents or information, irrespective of the medium used, and all the requisite assistance upon his request.<sup>96</sup>

(3) Where the revision of the declaration or the post-clearance examination of the goods indicates that the provisions governing the executed customs procedure concerned have been applied on the basis of incorrect or incomplete information, the customs officers shall, in accordance with the Customs Law and other laws, take the measures necessary to regularise the situation, taking into account the new information available to them.

(4) Where business records and other documents and records prescribed by the applicable legislation are kept in electronic form, the customs officer shall have the power to access the computer system database, as well as the right to require the production and presentation of all documents or declarations confirming a data kept electronically.

(5) A customs officer may make copies or use extracts from any documents produced under the provisions of this Article.

### Article 39

A customs officer may enter business premises during the working hours of the occupier of those premises if there are reasonable grounds to suspect that those premises are used in relation to supply, sale and production or import and export of goods subject to customs duty and other import duties and that such goods are on the premises, as well as to conduct

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<sup>95</sup> Official Gazette of the Republic of Macedonia no. 105/2009

<sup>96</sup> Official Gazette of the Republic of Macedonia no. 105/2009



examination of those premises and goods, including the premises designated as the registered office of a commercial subject or the premises in which a commercial activity is conducted.<sup>97</sup>

#### **Article 40**

(1) A customs officer may take measures to secure the type, quality and quantity of the goods where necessary in order to comply with the conditions governing the customs procedure for which the goods were declared or with the conditions governing the excise procedure. The measures shall be carried out by affixing a seal, customs markings or otherwise.<sup>98</sup>

(2) A customs officer may affix a seal or other customs markings onto the goods subject to customs supervision, as well as onto means of transportation, customs warehouses or other premises where such goods are placed, for the purpose of securing the type, quality and quantity of the goods and of their identicalness.<sup>99</sup>

(3) Seals and other customs markings may be removed, replaced or destroyed only by the customs officers or, with their permission, by other persons.

#### **Article 41**

If necessary for the purpose of carrying out of customs or excise supervision, a customs officer may seal or otherwise close the premises and clear from persons and objects the locations where loading, unloading, storage or examination of goods takes place, as well as the means of transportation, and to prohibit or restrict movement in such places, spaces or means of transportation.<sup>100</sup>

#### **Article 42**

(1) As evidence in the misdemeanour and/or criminal procedure, written reports on facts established in the search and examination of persons, means of transportation and business premises, documents in whatever form, goods and items seized or collected in accordance with this Law, the Customs Law and any other law the application of which is under the competence of the Customs Administration, may be used.

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<sup>97</sup> Official Gazette of the Republic of Macedonia no. 105/2009

<sup>98</sup> Official Gazette of the Republic of Macedonia no. 120/2018

<sup>99</sup> Official Gazette of the Republic of Macedonia no. 105/2009

<sup>100</sup> Official Gazette of the Republic of Macedonia no. 105/2009

(2) The reports given by the persons during the customs procedure or the reports given in the course of an investigation may be used as evidence in the misdemeanour or criminal procedure provided they were given in accordance with the Law on Criminal Procedure and the Misdemeanour Law.

#### **Article 43**

(1) For the purpose of capturing a perpetrator of a crime related to customs operation being directly pursued, for the purpose of transporting a victim of a crime or other accident to the nearest health institution, as well as for the performing of other official duties of urgency, the customs officers have the right to take advantage of transportation means and communication means available if that cannot be performed otherwise. For the use of the transportation means or the communication means, a note is issued to the owner, i.e. user of the means.

(2) The owner, i.e. the user of the means referred to in paragraph (1) of this Article has the right to a compensation of the actual damage inflicted upon the means with the use.

(3) Compensation for the damage referred to in paragraph (2) of this Article shall be borne by the Budget of the Republic of Macedonia.

#### **Article 44**

(1) In carrying out their competences the customs officers may use force and carry and use fire arms.

(2) The customs officers may use fire arms when:

- 1) self-defence is concerned;
- 2) there is no other way of stopping persons intending to cross the border and ignoring the customs officer's repeated orders to stop;
- 3) there is no other way of stopping vehicles and animals intending to cross the border and ignoring the customs officer's repeated orders to stop, and
- 4) there is no other way of preventing intentional damage to the Customs Administration facilities or assets;

(3) Upon receipt of information from a competent authority for initiated procedure related to committed crime or misdemeanour with elements of violence by a customs officer, assigned to working tasks to which he has access and handles official firearm, the firearm and ammunition shall be temporarily seized until the completion of the criminal or misdemeanour procedure.<sup>101</sup>

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<sup>101</sup> Official Gazette of the Republic of Macedonia no. 33/2015

(4) The decision for temporary seizure of firearms and ammunition shall be passed by the Director of the Customs Administration.<sup>102</sup>

(5) If the Customs Administration has been informed by a competent authority that a misdemeanour has been committed by a customs officer in accordance with paragraph (3) of this Article, the Customs Administration shall send a notification to the Ministry of Interior for temporary seizure of privately owned weapons, if the customs officer owns one in accordance with the Law on Weapons.<sup>103</sup>

(6) The customs officer against whom a procedure has been initiated in accordance with paragraph (3) of this Article will be sent by the Customs Administration to an authorized health institution for compulsory psychiatric and psychological examination i.e. counselling with a psychologist (psychological counselling). The customs officer shall be obliged to submit the written finding and opinion of the conducted examination inspection to the Customs Administration.<sup>104</sup>

(7) A customs officer may be assigned to a job post with an authorization to carry official firearms, for which he/she will be subject to a mandatory psychiatric and psychological examination, i.e. psychological counselling. The psychiatric and psychological examination finding, i.e. psychological counselling with mandatory finding and opinion on the capability of the customs officer shall be submitted to the Customs Administration.<sup>105</sup>

(8) Where a customs officer is found to have psycho-physical or general health impairment and is unfit to perform the duties and tasks of the job post with authorization to carry and use firearms at which he/she has been deployed, following the expiry of the temporary job suspension, while he/she at the same time does not fulfil the conditions to acquire the right to a disability pension in accordance with the law, the Director General of the Customs Administration may deploy him/her to a suitable job post without authorization for carrying and use of official firearms for an indefinite period of time.<sup>106</sup>

(9) The Government of the Republic of Macedonia, on proposal by the Minister of Finance shall prescribes in more detail the use of forcible means, as well as the carrying and use of firearms by customs officers.

#### **Article 44-a<sup>107</sup>**

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<sup>102</sup> Official Gazette of the Republic of Macedonia no. 33/2015

<sup>103</sup> Official Gazette of the Republic of Macedonia no. 33/2015

<sup>104</sup> Official Gazette of the Republic of Macedonia no. 33/2015

<sup>105</sup> Official Gazette of the Republic of Macedonia no. 33/2015

<sup>106</sup> Official Gazette of the Republic of Macedonia no. 33/2015

- (1) Firearms and ammunition in Customs Administration may be carried by:
  - 1) Customs officers from the Operational Matters Department;
  - 2) Customs officers from the Investigation Department;
  - 3) Customs officers from the Intelligence Department; and
  - 4) Customs officers from the Internal Investigations Department.
- (2) Firearms and ammunition at the Customs Administration may also be carried by other customs officers who are deployed at job post exposed to danger or threat to their personal safety.
- (3) The Customs Administration employees referred to in paragraphs (1) and (2) hereof may carry firearms and ammunition only if they meet the following requirements:
  - 1) Be in such health condition that allows for possessing and carrying firearms;
  - 2) Be theoretically and practically trained for handling firearms; and
  - 3) Be familiar with the laws and regulations pertaining to the carrying and use of firearms and ammunition.
- (4) The Customs Administration employees referred to in paragraphs (1) and (2) hereof shall hand in their firearms and ammunition when:
  - 1) Their employment with Customs Administration is terminated;
  - 2) They are deployed to another job;
  - 3) In case of termination of any of the requirements under paragraph (3) hereof; and
  - 4) In other cases justified by a decision of the Customs Administration Director General.
- (5) The customs employees shall report to the Customs Administration any case of disappearance, loss or theft of their weapons or ammunition, within 24 hours as from the moment they noticed it.
- (6) The customs employees shall report to the Customs Administration any case of disappearance, loss or theft of an authorization to carry and use weapons within eight days as from the moment they noticed it.

#### **Article 45**

Customs officers have the right to collect payment of mandatory penalties in accordance with the Customs Law.

#### **Article 46**

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<sup>107</sup>Official Gazette of the Republic of Macedonia no. 120/2018

In carrying out their authorisations on and in means of public transportation the customs officers have the right to free transportation with the means and the right to insurance, just as the passengers paying for the transportation with such transportation means.

#### **Article 47**

Legal entities and natural persons shall act as per the customs officer's request and shall allow the customs officer to undertake all measures and activities in compliance with Articles 26 through 46 of this Law.

### **IV. GATHERING, RECORD KEEPING, PROCESSING AND PROTECTION OF DATA**

#### **Article 48**

(1) The Customs Administration gathers, records, processes and protects personal and other data for the purpose of carrying out their competences directly from persons the data refers to, as well as from persons that possess the required data or from the existing records, of which the Customs officers are not obligated to notify the persons the data refers to if this would render the performance of a certain task impossible or more difficult.

(2) The authorities of state administration and other state authorities, organisations or other persons whose official duty is to keep data referred to in paragraph (1) of this Article, shall provide such data upon request by the Customs officers.

#### **Article 49**

(1) The Customs Administration shall keep records of the data referred to in Article 48 of this Law in accordance with a law regulating protection of personal data.

### **V. MANAGEMENT, LANDSCAPING AND MAINTENANCE OF THE FACILITIES AT THE ROAD BORDER CROSSING POINTS<sup>108</sup>**

#### **Article 49-a**

Management of road transport border crossing facilities shall cover:

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<sup>108</sup> Official Gazette of the Republic of Macedonia no. 103/2008

- Regulation of relations by the Customs Administration with state administration authorities performing activities in line with their legal responsibilities in facilities at road transport border crossings, as well as with legal and natural persons using any facility or part thereof at the border crossing,

- Lease of office space,
- Lease of advertising space,
- Record-keeping of office space and advertising space leased,
- Collection of fees for services performed, and

- Provision of conditions for the operation of border crossings, such as heating, water supply, power supply, telephone connections, sanitation, horticultural landscaping and other current needs.

#### **Article 49-b**

Landscaping of facilities at road transport border crossings shall cover:

- Construction land equipment with communal infrastructure facilities (construction of facilities, installations, horticultural landscaping), including initiation of development of urban planning designs, technical blueprints, documentation and construction requirements, in accordance with law,

- Initiation of procedures addressing any property issues related to such construction land,

- Planning, construction, installation, conversion, reconstruction and removal of buildings,

- Initiation of procedures for geo-mechanical and geo-technical works, and

- Placement of both vertical and horizontal signs at border crossings.

#### **Article 49-c**

Maintenance of facilities at road transport border crossings shall cover:

- Investment maintenance (rehabilitation, reconstruction and replacement of buildings, equipment, installations, etc.), and

- Ongoing maintenance, such as maintenance of facilities, equipment and installations, weighbridges, ramps, generators, winter maintenance of access roads to terminal weighbridges and plateaus, hygiene and maintenance of fire extinguishers.

#### **Article 49-d**

(1) Works referred to in Articles 49-a, 49-b and 49-c of this Law shall be based on an Annual Program adopted by the Government of the Republic of Macedonia upon a proposal of the Minister of Finance determined upon prior consultations with the Minister of Interior.

(2) The Program referred to in paragraph (1) hereof shall contain:

- Action Plan for the construction of border crossing facilities,
- Plan for investment and ongoing maintenance of border crossing facilities,
- Preparatory works for construction of business premises, weighing scales, parking lots, terminals and toilets,
- Plan for development of the construction land defined by urban plans for border crossings,
- Manner of using business premises, weighing scales, parking lots, terminals and toilets,
- Plan for permission to use facilities at border crossings and lease thereof, and
- Types of border crossing services for which fees are charged.

(3) The fees under paragraph (2) line 7 hereof shall be charged for entry and use of the terminal and terminal services, as well as for loading and unloading of goods.<sup>109</sup>

(4) The amount of fees referred to in paragraph (3) hereof shall be prescribed by the Minister of Finance, depending on the duration of stay of vehicles at the customs terminal after completion of customs procedures, and also depending on the type of vehicles<sup>110</sup>

(5) Funds from the fees under paragraph (3) hereof, and from the lease of business premises and advertising space shall be revenues for the Budget of the Republic of Macedonia.<sup>111</sup>

#### **Article 49-e<sup>112</sup>**

(1) The facilities at road transport border crossings may be given on lease to any domestic or foreign legal or natural person.

(2) The lease of items referred to in paragraph (1) hereof shall be decided by the Government of the Republic of Macedonia.

(3) Regarding the procedure for lease of items under paragraph (1) hereof, the provisions of the Law on Use and Disposal of State-owned and Municipally-owned Goods relating to the procedure for lease of immovable property shall apply.

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<sup>109</sup>Official Gazette of the Republic of Macedonia no. 23/2016

<sup>110</sup>Official Gazette of the Republic of Macedonia no. 23/2016

<sup>111</sup>Official Gazette of the Republic of Macedonia no. 64/2009

<sup>112</sup>Official Gazette of the Republic of Macedonia no. 23/2016

#### **Article 49-f**

(1) The duration of the lease under Article 49-e of this Law may be up to ten years for office space and up to three years for advertising space.

(2) Business and advertising space leased may not be given for sublease.

#### **Article 49-g**

The Customs Administration Director General shall conclude a Lease Agreement with the best bidder.

#### **Article 49-h<sup>113</sup>**

(1) The facilities at border crossings used by the Customs Administration shall be designed, built and managed so as to meet the minimum standards for material and technical means, equipment and premises, according to the categorization of border crossings.

(2) The Government of the Republic of Macedonia shall, upon a proposal of the Minister of Finance, prescribe more closely the minimum standards for material and technical means, equipment and premises, according to the categorization of border crossings.

### **PART TWO**

## **VI. SPECIFICS OF THE RIGHTS, RESPONSIBILITIES AND LIABILITIES OF THE CUSTOMS OFFICERS IN LABOUR RELATIONS**

### **1. General Provisions**

#### **Article 50**

(1) The issues related to customs officers' employment are regulated under this Law. The provisions of the laws governing the status of administrative and public sector employees and the general regulations concerning labour relations shall apply for all issues that are not regulated under this Law.<sup>114</sup>

(2) Customs Administration employees' performing activities in the area of financial, general administrative, material operations and public procurements not covering duties and tasks related to customs procedures and who are not customs officers shall exercise the rights, duties and responsibilities of employment relation pursuant the laws

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<sup>113</sup>Official Gazette of the Republic of Macedonia no. 33/2015

<sup>114</sup> Official Gazette of the Republic of Macedonia no. 43/2014



governing the status of administrative and public sector employees, as well as the general regulations on labour relations.<sup>115116</sup>

(3) The Law regulating the status of employees in the public sector in relation to the rights, duties and responsibilities of the employment relationship, as well as the general regulations on labour relations, shall apply for Customs Administration employees who perform technical or support activities.<sup>117</sup>

## **2. Employment**

### **Article 51<sup>118</sup>**

(1) The procedure for recruitment of customs officers is performed in accordance with the law regulating the status of administrative officials.

(2) A candidate for customs officer shall take an exam for customs officer at the Agency for Administration (hereinafter: the Agency).

(3) The database of questions for the expert part shall be developed by the Customs Administration in cooperation with the Ministry of Information Society and Administration and the Agency. The database shall be revised at least once a year, and it shall cover the following areas:

- the constitutional order of the Republic of Macedonia,
- customs, excise and tax system,
- the system of administrative law, administrative procedure and administrative dispute,
- the position and other general issues for public sector employees,
- the employment relations of customs officers; and
- Code of Ethics for Customs Officers.

(4) The Director General is obliged to pass a decision for employment selection.<sup>119</sup>

**Articles 52, 53, 53-a and 54 are erased<sup>120</sup>**

## **6. Termination of Employment**

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<sup>115</sup> Official Gazette of the Republic of Macedonia no. 53/2011

<sup>116</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>117</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>118</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>119</sup> Official Gazette of the Republic of Macedonia no. 167/2014

<sup>120</sup> Official Gazette of the Republic of Macedonia no. 43/2014

## **Article 55**

(1) The Director General shall terminate a customs officer's employment contract when the customs officer fulfils the requirements for retirement;<sup>121</sup>

### **Article 55-a<sup>122</sup>**

Employment Contract shall be terminated if under the conditions and manner prescribed by law it was found that the customs officer had lost his/her legal capacity, as at the date of submission of the final decision determining the loss of such legal capacity.

### **Article 55-b<sup>123</sup>**

Employment Contract with Customs Administration may be terminated due to any disciplinary responsibility on the part of the customs officer, as at the date of the final decision thereon.<sup>124</sup>

### **Article 55-c<sup>125</sup>**

Customs officer's Employment Contract may be terminated if:

- 1) The customs officer provided a written statement that he/she wants to terminate the Employment Contract;
- 2) It was found that when being recruited, the customs officer withheld or gave false information with respect to the general and specific employment requirements, as from the date of the final decision or as from the expiry of the period for deciding on a complaint against such decision;
- 3) The customs officer was assessed as "unsatisfactory" three times consecutively or at least three times in the last five years;
- 4) For any business reasons; and
- 5) In other cases stipulated by this Law.

### **Article 55-d<sup>126</sup>**

The Employment Contract of a customs officer with Customs Administration shall be terminated if a final court decision was rendered prohibiting him/her to carry out certain employment tasks, a ban was imposed on him/her to perform a profession, activity or duty whereby he/she may not perform such work for longer than six months as from the date of such ban, or if by a final judgment, an imprisonment for more than six months was imposed

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<sup>121</sup> Official Gazette of the Republic of Macedonia no. 167/2014

<sup>122</sup> Official Gazette of the Republic of Macedonia no. 53/2011

<sup>123</sup> Official Gazette of the Republic of Macedonia no. 53/2011

<sup>124</sup> Official Gazette of the Republic of Macedonia no. 23/2016

<sup>125</sup> Official Gazette of the Republic of Macedonia no. 53/2011

on him/her as from the date of such imprisonment or if by a final court judgment, he/she was convicted of a crime in connection with his/her term of office.<sup>127</sup>

**Article 55-e<sup>128</sup>**

Decisions under Articles 55, 55-a, 55-b, 55-c and 55-d, shall be made by the Director General.

**7. Suspension**

**Article 56**

(1) Suspension is temporary removal from work of a customs officer for reasons laid down in this Article and for as long as the reason for the removal exists. At the end of such period, the customs officer resumes his/her position in the Customs Administration, except if termination of employment is proclaimed by dismissal in accordance with the provisions of Article 55, 55-a, 55-b, 55-c and 55-d of this Law.<sup>129</sup>

(2) A customs officer may be suspended if there are reasonable grounds to suspect that he/she has taken advantage of his/her work position in the Customs Administration and the suspension shall end on completion of the disciplinary procedure.

(3) A Customs officer shall be suspended if he/she is placed in custody, from the first day in custody and during the whole period of custody. If the criminal procedure initiated against him/her is not completed, the suspension shall terminate on completion of the criminal procedure and/or the disciplinary procedure, if started for the same act.

(4) If the Customs Administration receives information from a competent authority that a procedure has been initiated before a competent authority in accordance with Article 44 paragraph (3) of this Law, a procedure will be initiated against the customs officer for temporary suspension from the workplace until the completion of the initiated procedure before the competent authority for committing a crime or misdemeanour with elements of violence.<sup>130</sup>

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<sup>126</sup> Official Gazette of the Republic of Macedonia no. 53/2011

<sup>127</sup> Official Gazette of the Republic of Macedonia no. 167/2014

<sup>128</sup> Official Gazette of the Republic of Macedonia no. 167/2014

<sup>129</sup> Official Gazette of the Republic of Macedonia no. 167/2014

<sup>130</sup> Official Gazette of the Republic of Macedonia no. 33/2015

(5) During the suspension period the customs officer is entitled to receive compensation of 50% of his/her basic salary. In case of reinstatement, the Customs officer is entitled to compensation up to 100% of the basic salary.<sup>131132</sup>

(6) The Director passes a Decision for suspension or reinstatement of the customs officer in writing.<sup>133 134</sup>

(7) Against the decision referred to in paragraph (6) of this Article the customs officer may file an appeal to the Agency for Administration within 8 days of the date of receipt of the decision.<sup>135136</sup>

(8) The Customs Administration shall submit the appeal, together with the supporting documents to the Agency for Administration<sup>137</sup> no later than seven days from the date of receipt of the appeal. The appeal shall not postpone the execution of the decision.<sup>138139</sup>

(9) Upon submission of the appeal referred to in paragraph (6) of this Article, the Agency for Administration<sup>140</sup> shall pass a decision within 15 days from the date of receipt of the appeal with the case files.<sup>141142</sup>

(10) Where a decision referred to in paragraph (8) of this Article has not been reached or when the customs officer is unsatisfied with the decision passed on the appeal, he/she has the right to initiate a dispute before the competent court within 15 days from the day of receipt of the decision or from the next day after the expiry of the deadline in which it should have been delivered.<sup>143144</sup>

## **8. Occupational Safety and Healthy Working Environment**

### **Article 57**

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<sup>131</sup> Official Gazette of the Republic of Macedonia no. 53/2011

<sup>132</sup> Official Gazette of the Republic of Macedonia no. 33/2015

<sup>133</sup> Official Gazette of the Republic of Macedonia no. 53/2011

<sup>134</sup> Official Gazette of the Republic of Macedonia no. 33/2015

<sup>135</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>136</sup> Official Gazette of the Republic of Macedonia no. 33/2015

<sup>137</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>138</sup> Official Gazette of the Republic of Macedonia no. 53/2011

<sup>139</sup> Official Gazette of the Republic of Macedonia no. 33/2015

<sup>140</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>141</sup> Official Gazette of the Republic of Macedonia no. 33/2015

<sup>142</sup> Official Gazette of the Republic of Macedonia no. 33/2015

<sup>143</sup> Official Gazette of the Republic of Macedonia no. 53/2011

<sup>144</sup> Official Gazette of the Republic of Macedonia no. 33/2015

The Director General shall provide the necessary requirements for safety at work in accordance with this Law, other law and collective bargaining agreement. Provision of a safe and healthy work environment for employees is a moral and legal responsibility of the Director General in accordance with highest international standards.

1) The Customs Administration shall provide to each of its employees employment and a place of employment free from recognised hazards that cause or may cause death or serious physical harm to its employees and

2) the customs officer shall comply with the prescribed measures and norms for safety at work and shall perform at the work place with care in order to provide safety in regard to his/her life and health, as well as the life and safety of the other employees and the citizens.

## **9. General Obligations**

### **Article 58**

(1) The customs officer shall:

1) perform his/her work duties conscientiously, professionally, efficiently, orderly and timely, in accordance with the Constitution, the law and the Customs Administration regulations;

2) perform his/her work duties impartially and without the influence of political parties, shall not be guided by his/her own political beliefs or personal financial interests, refrain from misuse of authorisations and the Customs officer status and protect the reputation of the Customs Administration;

3) execute the orders of his/her immediate superior if they are in accordance with the Constitution, the law and other regulations;

4) shall, in accordance with law and the Customs Administration regulations, upon request by the citizens, interested parties and public institutions, provide information required to exercise their rights and interests, not including classified and confidential information;

5) not use privileges and immunities and shall not request nor accept material nor other gifts for fulfilling his/her duties;

6) professionally upgrade his/her knowledge in order to improve the professional requirements by respecting and applying at all times the regulations for the performance of his/her official duties;

7) respect the prescribed working hours;

8) use the property and equipment which is provided to him/her for the performance of his/her duties correctly and as a responsible manager in accordance with their function and not to use them for private purposes;

9) behave in accordance with the Code of Conduct of the Customs Administration and the prescribed rules for order and discipline of the Customs Administration.

10) respect all security measures applied that may endanger his/her life or health, including the lives and health of other employees of the Customs Administration and citizens.

(2) The customs officer is disciplinarily liable for non-compliance with the obligations prescribed in paragraph (1) of this Article, as well as liable for offence or criminal incidents, in accordance with law.

(3) The procedure for offence or criminal liability referred to in paragraph (2) of this Article may, in accordance with law, also be initiated against persons whose employment in the Customs Administration has been terminated.

## **10. Requirement for Health Examination**

### **Article 59**

(1) The signing of a contract and the establishment of employment shall be executed once a medical institution recognised by the Customs Administration determines that the candidate customs officer meets the relevant health standards for the performance of the tasks of the post.

(2) In cases where a customs officer is promoted or transferred, the same condition referred to in paragraph (1) of this Article shall apply, if necessary for the concerned post.

(3) Where a customs officer does not satisfactorily perform his/her tasks and when he/she has been away from work for a longer period, or his/her health is questionable or similar circumstances, the Director General may decide to instruct the customs officer to undergo a medical examination at an official medical institution selected for that purpose.

## **11. Activities outside work**

### **Article 60**

(1) Customs officers may not perform any other profit making function, duty or activity which is in conflict with their official duty.

(2) Customs officers may not conduct an activity in conflict with their official duty as owners or partners in trade companies, members of a board of directors or of supervisory authorities of trade companies.

(3) Customs officers may undertake other work and perform other activities only after prior approval by the Director.

(4) The work and activities that are in conflict with the official duties of customs officers are prescribed by the Director General with an operational instruction.

(5) Customs officers acting contrary to the provisions of this Article are subject to disciplinary measures in accordance with Article 73 of this Law.

## **12. Secrecy and Confidentiality**

### **Article 61**

(1) Customs officers may not use or communicate for unauthorised purposes any information to his/her knowledge pertaining to customs matters.

(2) The customs officer's obligation to respect strict confidentiality concerning any official, business or other classified information, determined with this Law and special regulations, continues even after the termination of employment in the Customs Administration, until the restricted period of confidentiality ceases.

(3) The customs officer shall be disciplinarily liable for non-compliance with the obligations prescribed in the provisions of this Article, as well as liable for offence or criminal incidents in accordance with law.

(4) An offence or criminal liability procedure of paragraph (3) of this Article may also be initiated against persons whose employment in the Customs Administration has terminated in accordance with law.

(5) The Minister of Finance shall on proposal by the Director prescribe the type of documentation and data designated as official, trade or other secret, manner of preservation and protection.

(6) Consent for relief from obligation to preserve an official, trade and other secret is given by the Director.

## **13. General Rights**

### **Article 62**

The general rights of customs officer are:

- 1) right to guaranteed employment, in accordance with this Law;
- 2) protection by competent authorities in the performance of his/her duties;
- 3) right to working conditions suitable for execution his/her official duties;
- 4) right to apply to a vacancy of a higher category;
- 5) right to seek protection when exercising his/her employment rights, before a competent court, trade union or other competent authority in accordance with law;
- 6) right to a salary and allowances under conditions and criteria defined by provisions in force;
- 7) right to vacations, absences and leaves from work in accordance with the regulations in force;
- 8) right to professional development and training in accordance with the needs of the Customs Administration;
- 9) right to work and carry out other permitted activities outside his/her duties and working hours, provided that the work and activities are not in opposition with his/her official duties and activities in accordance with Article 60 of this Law, and
- 10) right to establish and be a member of a labour union and professional organisations in accordance with laws and thus participating in the decision making process concerning the conditions of work.

**Article 62-a<sup>145</sup>**

Mutual rights and obligations between the Customs Administration and the customs officer sent to training for this institution's purposes shall be regulated by a written agreement specifying the exact date by which the customs officer may not request employment termination, as well as his/her material liability proportionate to the funds spent for his/her training, if his/her employment was terminated due to his/her fault or request prior to the date stipulated.

**14. Transfers, Promotions, Working Hours, Leaves and Absences**

**Article 63<sup>146</sup>**



(1) In the interest of the Customs Administration, a customs officer may, under a specified or unspecified period, be transferred to another post that corresponds to his/her professional background, knowledge and qualifications.

(2) The Customs officer may be assigned to another lower vacant job post without meeting the requirements for foreign language knowledge and active knowledge of office work computer programs.<sup>147148</sup>

(3) An employee of the Customs Administration, who is not a customs officer, may, if necessary, be assigned to a customs officer job post in accordance with the Law on Administrative Officers, the Law on Public Sector Employees and the Law on Labour Relations, provided he/she meets the conditions determined in the act on job post systematization of the Customs Administration, and provided he/she passes the professional exam for customs officer at the Customs Administration within six months.<sup>149</sup>

(4) The transfer under a specified period may last up to 6 months with a possibility for another 6-month extension.

(5) The customs officer who during his/her employment is being transferred in the interest of the Customs Administration is entitled to:

- 1) reimbursement of transportation costs in the amount of the costs for transport by public transport means (transport ticket) from home to work and vice versa, provided the Customs Administration does not provide organized transport, and the workplace is more than 50 km from the place of residence. In order to exercise this right, the customs officer shall submit a document indicating the transport costs issued by the legal entity organizing the transport or
- 2) the customs officer who, in the course of his employment, is transferred to a position more than 100 kilometres from the place of residence, has the right to compensation for apartment rent at the place of work.

(6) The amount of rent for an apartment at the place of work shall be determined according to the following criteria:

- 1) the amount of the rent should not exceed EUR 300 in denar counter value per month;
- 2) the rented apartment should not exceed 60 m<sup>2</sup> and
- 3) the rented apartment should be in a settlement in the immediate vicinity of the location of the organizational unit in which the deployed customs officer will work.

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<sup>145</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>146</sup> Official Gazette of the Republic of Macedonia no. 53/2011

<sup>147</sup> Official Gazette of the Republic of Macedonia no. 113/2012

<sup>148</sup> Official Gazette of the Republic of Macedonia no. 23/2016

(7) The Minister of Finance, on proposal of the Director General shall prescribe the amount of rent and the manner of renting an apartment.

(8) A customs officer that is transferred at his/her own request shall not have the right to reimbursement laid down in prescribed in paragraph (3) of this Article.

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#### **Article 63-a<sup>151</sup>**

(1) The customs officer shall have the right to file an appeal against the decision for his/her reassignment within eight days from the date of such decision's receipt. The appeal shall not delay the execution of the reassignment decision. The appeal shall be filed through the Customs Administration to the Administration Agency.<sup>152</sup>

(2) The Customs Administration shall file the appeal along with the supporting documents to the Agency for Administration<sup>153</sup> within a period of seven days as from the date of receipt of such appeal.

(3) After the submitted appeal referred to in paragraph (1) hereof, the Administration Agency<sup>154</sup> shall issue a decision within 15 days as from the date of receipt of such appeal along with the case documents.

(4) If the decision referred to in paragraph (3) hereof was not rendered or if the customs officer was not satisfied with the decision made on his/her appeal, he/she shall have the right to initiate a dispute before the competent court within 15 days as from the date of receipt of such decision or as from the day following the deadline in which it should have been delivered.

#### **Article 63-b<sup>155</sup>**

(1) The customs officer who, as required by Customs Administration, was temporarily reassigned for up to three months, shall not be entitled to the compensation referred to in Article 63 paragraph (4) item 2 of this Law.

(2) The customs officer, who was temporarily reassigned for up to three months to a workplace that is more than 100 kilometres away from his/her place of residence, shall be accommodated in the accommodation facilities at Customs Administration's disposal.

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<sup>149</sup> Official Gazette of the Republic of Macedonia no. 23/2016  
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<sup>151</sup> Official Gazette of the Republic of Macedonia no. 53/2014

<sup>152</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>153</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>154</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>155</sup> Official Gazette of the Republic of Macedonia no. 43/2014

(3) With his/her consent, the customs officer temporarily reassigned for more than three months can be accommodated in the accommodation facilities at Customs Administration's disposal.

#### **Article 64**

(1) Assignments and promotions can be permanent or temporary.

(2) A customs officer may, by decision of the Director General be permanently assigned to a vacant post of a higher rank within the Customs Administration by means of promotion, for which an internal vacancy announcement shall be made. This announcement shall specify the particular requirements and conditions of the post concerned.<sup>156</sup>

(3) A temporary promotion is the temporary assignment of a customs officer to a higher ranked post for a specified period of time up to 6 months with a possibility for extension of that period for another 6 months. At the end of the specified period the customs officer is either returned to his/her permanent post or another appropriate post. The Customs officer may be temporarily promoted to a post corresponding to his professional experience, knowledge and qualifications, and without meeting the conditions for foreign language knowledge and active knowledge of computer office work programs.<sup>157</sup>

#### **Article 64-a**

(1) The Director General or a managerial customs officer authorized by the Director may issue a written order ordering the worker to perform a task in another organizational unit different from the organizational unit in which the worker works.

(2) The order referred to in paragraph (1) hereof shall be issued for the execution of urgent and immediate matters whose scope, complexity and duration exceed the available resources of a particular organizational unit, whereby the tasks to be performed by the customs officer shall not be different from the tasks of a customs officer at the workplace where he works.

(3) The performance of the tasks referred to in paragraph (2) hereof, for which the order was issued, may last up to 30 days, with a possibility to extend them for another period of up to 30 days.<sup>158</sup>

#### **Article 64-b**

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<sup>156</sup> Official Gazette of the Republic of Macedonia no. 113/2012

<sup>157</sup> Official Gazette of the Republic of Macedonia no. 120/2018

<sup>158</sup> Official Gazette of the Republic of Macedonia no. 120/18

The customs officer may be assigned to the post of assistant director and manager, following a prior approval by the Minister of Finance.<sup>159</sup>

### **Article 65**

(1) As the requirements of the service demand and the immediate superior instructs, the customs officers shall work shifts or variable working hours, including working unsocial hours and overtime.

(2) The customs officer is entitled to annual leave and other absences stated in accordance with law and the requirements of the Customs Administration.<sup>160</sup>

### **Article 65-a<sup>161</sup>**

The assignment and promotion decisions shall be made by the Director.

## **15. Performance Assessment**

### **Article 66**

(1) Customs officers shall in the course of their work be assessed once a year applying the Performance Evaluation System Act brought by the Director, no later than the first quarter of the following year for the year that has expired. A performance report from the assessment shall be duly completed and signed by both parties. The performance report is recorded and kept in the Customs officer's personal file.

(2) Customs officers who have been justifiably absent from work for a period longer than 6 months during the year (sick leave, unpaid leave etc.) shall not be assessed.

(3) The assessment of the customs officers shall be made based on data regarding the professional knowledge and skills of the post, the efforts, the results achieved, the creativity and consciousness in the performance of official duties that are of great significance for the execution of the main activities of the Customs Administration.

(4) The results of the assessment shall be used as the basis for any decision concerning failure to comply with the requirements of the occupied post, a promotion, a transfer to another position and some other career development direction.

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<sup>159</sup> Official Gazette of the Republic of Macedonia no. 120/18

<sup>160</sup> Official Gazette of the Republic of Macedonia no. 120/18

<sup>161</sup> Official Gazette of the Republic of Macedonia no. 167/2014

(5) Performance evaluation and assessment of a customs officer may also be conducted prior to the annual evaluation assessment whenever needs demand a decision regarding unsatisfactory work results, transfer, promotion and disciplinary measures.

(6) Customs officers who fail to present satisfactory performance results as reflected in their performance assessment report shall have the right to any further training necessary and to their superiors' support in order to raise their performance to a satisfactory standard. If they fail to do so within a predetermined period, action shall be taken for their dismissal.

#### **Article 66-a<sup>162</sup>**

(1) Customs officers not showing satisfactory performance and not doing their work at a satisfactory level shall be subject to reassessment of their competence to perform their tasks.

(2) Customs officers' competence reassessment shall be performed in the second quarter of the current year, including such customs officers whose direct managerial customs officers have indicated as necessary to check their competence in their previous year appraisal report.

#### **Article 66-b<sup>163</sup>**

(1) Competence reassessment shall be done by a committee of three members formed by the Director, of whom one member shall be president.

(2) Committee members shall meet the following requirements:

- to not have been found disciplinary liable in the previous three years,
- to have been evaluated as "outstanding" or "satisfactory" in the previous three years, and
- to have performed tasks at positions of managerial and professional customs officers in their previous work.

(3) The manner of competence assessment and committee's work shall be determined by an act adopted by the Customs Administration Director General.

## **16. Monthly Salary, Allowances, Extra Payments and Bonuses**

### **Article 67**

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<sup>162</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>163</sup> Official Gazette of the Republic of Macedonia no. 43/2014

(1) Customs officers are entitled to receive payment of salaries, salary allowances and other allowances. Customs officers' salaries, salary allowances and other allowances shall be provided from the Budget of the Republic of Macedonia.

(2) The manner of determining the basic salary, the salary allowances and the salary extras of the customs officers shall be regulated by a collective bargaining agreement, and the value of the point for calculating customs officers' salaries shall be determined each year by a decision of the Director General of the Customs Administration upon prior consent by the Minister of Finance, which is adopted within ten days from the day of the adoption of the Budget of the Republic of Macedonia, and within the frames of the budget and on grounds of the total number of customs officers deployed on appropriate levels for the current year.<sup>164</sup>

(3) Customs officers receive 30% of the salary in addition to the regular salary for special work conditions, as well as for special responsibility resulting from the functions of the post.<sup>165</sup>

(4) The Minister of Finance on proposal by the Director General may determine a higher salary percentage determined under paragraph (3) of this Article for specific posts demanding more specific qualifications or specific skills, and which are of particular significance to the efficiency of the Customs Administration, but the amount may not exceed 50% of the salary.<sup>166</sup>

(5) The specific job posts referred to in paragraph (4) of this Article shall be determined by the Government of the Republic of Macedonia.<sup>167</sup>

(6) Customs officers receive incentive payments and bonuses related to the performance assessment, particular outstanding performance or detection of customs crimes or offences.<sup>168</sup>

(7) Detailed regulations of the Incentive Payments System shall be brought by the Minister of Finance on proposal by the Director General and in accordance with law and a collective bargaining agreement.<sup>169</sup>

## 17. Benefits

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<sup>164</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>165</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>166</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>167</sup> Official Gazette of the Republic of Macedonia no. 107/2007

<sup>168</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>169</sup> Official Gazette of the Republic of Macedonia no. 43/2014

### **Article 68**

If a criminal procedure is initiated against a customs officer due to the use of firearms or other actions in the course of performing official duties, as well as for partaking in a traffic accident during the course of performing official duties, on request by the Customs officer, legal assistance free-of-charge is provided by the Customs Administration if the used means and actions are proved justifiable.

### **Article 69**

(1) A customs officer shall be entitled to exemption of participating with a private contribution while using medical facilities in treating injuries acquired in the course of and in connection with the performance of the official duty in the Customs Administration.

(2) The exemption stated under paragraph (1) of this Article includes primary health care institutions and facilities, specialist consultations and hospitals in accordance with law.

(3) The costs referred to in paragraph (1) of this Article shall be borne by the Customs Administration.

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### **Article 70**

Customs officers, due to the specific nature of the duties they perform, are entitled to risk related insurance benefit scheme calculated with increased duration.

## **18. Recording Career Development**

### **Article 71**

(1) The files on career development in the Customs Administration (the decisions taken and written statements given in relation to the customs officer) shall be entered in the customs officers' career records which shall be kept at the Customs Administration Headquarters.

(2) The records referred to in paragraph (1) of this Article shall include all relevant customs officers' professional and personal data. Data shall be maintained

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<sup>170</sup> Official Gazette of the Republic of Macedonia no. 33/2015

in electronically in strict accordance with the provisions regulating personal data protection.<sup>171</sup>

(3) The customs officer shall have the right to access the records of his/her career development, as well as the right to receive a copy of the documents.

(4) The Minister of Finance, on proposal of the Director General of the Customs Administration shall prescribe the manner of promotion at the Customs Administration.<sup>172</sup>

## **VII. CODE OF CONDUCT AND LIABILITY**

### **1. Code of conduct**

#### **Article 72**

(1) Customs officers are required to at all time maintain highest standards of their own integrity and the integrity of the Customs Administration in their dealings and activities with members of the public, the business community and other state administration authorities and other state authorities.

(2) The Code of Conduct shall describe, in practical and clear terms, the standards of behaviour that shall be respected by all Customs officers and shall provide guidelines and instructions to solving ethical issues for those working in the Customs Administration and those who cooperate and have dealings with Customs officers.

(3) The Code of Conduct shall be regulated by the Collective Bargaining Agreement.

(4) Cases of conduct contrary to the Code of Conduct may be subject to disciplinary measures, including the measure termination of the employment by dismissal.

### **2. Disciplinary Liability**

#### **Article 73<sup>173</sup>**

(1) Customs officers shall be personally liable for the official duties and functions of his/her post.

(2) The customs officers shall be disciplinary liable for violation to official powers.

(3) The liability for committed crime, i.e. misdemeanour shall not exclude disciplinary liability of a customs officer.

#### **Article 73-a<sup>174</sup>**

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<sup>171</sup> Official Gazette of the Republic of Macedonia no. 23/2016

<sup>172</sup> Official Gazette of the Republic of Macedonia no. 53/2011

<sup>173</sup> Official Gazette of the Republic of Macedonia no. 43/2014



Customs officers' employment contract may be terminated due to violation of the working order and discipline or failure to fulfil the obligations determined by law, the Collective Bargaining Agreement, Customs Administration's Rules and Regulations, Customs Administration's Job Systematization Act and Employment Contract, if customs officers:

1. Do not respect the working order and discipline as stipulated by the Rules of Customs Administration,
2. Fail to perform or negligently and untimely perform their work obligations,
3. Do not abide by the regulations applicable to their work place duties performance,
4. Do not adhere to the established working hours, schedule and use of working hours,
5. Do not request leave or do not inform in writing the organizational unit's director or manager or another responsible employee about their absence from work in a timely manner,
6. They are absent from work due to illness or justified reasons, and within 48 hours, they fail to inform in writing the organizational unit's director or manager or another responsible employee,
7. Do not handle work resources with prudence or in accordance with the technical work instructions,
8. Do not immediately inform the director in case of damage, operation error or loss,
9. Fail to maintain the occupational safety and health (OSH)resources and equipment in accordance with OSH regulations,
10. Cause disorder and exhibit violent behaviour during work,
11. Provide false information or fail to provide information that shall be given to any authorized bodies or individuals,
12. Use Customs Administration's resources illegally or without authorization,
13. Avoid training,
14. Fail to fulfil general obligations referred to in Article 58 of this Law,
15. Act contrary to Customs Administration's regulations,
16. They are unjustifiably absent from work for three consecutive working days or five working days during one year,

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<sup>174</sup> Official Gazette of the Republic of Macedonia no. 53/2011

17. Abuse their sick leave,
18. Do not adhere to the regulations on occupational safety and health, fire, explosion, harmful action of toxic and other hazardous substances, and violate the environmental protection regulations,
19. They bring in, use or are under the influence of alcohol and narcotics,
20. Commit theft, either intentionally and in connection with their work, or due to utter carelessness, thus causing damage to the Customs Administration,
21. Give away classified information,
22. Overstep or abuse their authority,
23. Do not implement the resolutions by committees and commissions established at Customs Administration and do not act within the foreseen timelines,<sup>175</sup>
24. Do not act upon the obligations arising from the resolutions and agreements for professional training and development,<sup>176</sup>
25. Behave contrary to the Code of Conduct,
26. A procedure for committing a criminal offense or offense with violent elements was initiated against them, if they have access and authorization to carry and use firearms while performing their responsibilities,<sup>177</sup>
27. They fail to attend compulsory psychiatric and psychological examination, i.e. counselling with a psychologist, or fail to submit the findings and opinion regarding such examination.<sup>178</sup>

#### **Article 73-b<sup>179</sup>**

In case of violation of the working order and discipline or failure to perform work obligations determined by this Law, one of the following disciplinary measures may be imposed on to the customs officer:

- Written warning,
- Fine which may not exceed 15% of the last monthly net salary paid to the employee, for a period of one to six months, and
- Employment contract termination.

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<sup>175</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>176</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>177</sup> Official Gazette of the Republic of Macedonia no. 33/2015

<sup>178</sup> Official Gazette of the Republic of Macedonia no. 33/2015

<sup>179</sup> Official Gazette of the Republic of Macedonia no. 53/2011

#### **Article 73-c<sup>180</sup>**

Depending on the extent of customs officer's responsibility, conditions under which his/her work obligations and working order and discipline were violated, customs officer's previous work and behaviour, and violation and its consequences' severity, the customs officer may, instead of being terminated his/her employment contract, be imposed a fine by his/her director, which may not exceed 15% of the last monthly net salary paid to the customs officer, for a period of one to six months.

#### **Article 73-d<sup>181</sup>**

In the event of working order and discipline violation under particularly mitigating circumstances, and depending on customs officer's responsibility, conditions under which such violation of work obligations and working order and discipline was made, as well as customs officer's previous work and conduct, the director may, instead of terminating customs officer's employment contract or imposing a fine, issue a written warning to such customs officer.

#### **Article 73-e<sup>182</sup>**

If the customs officer was issued a disciplinary measure for his/her employment contract termination regarding any working order and discipline violation or failure to perform his/her work duties pursuant to Article 73-a of this Law, he/she shall be entitled to a notice period of one month as from the date of receipt of the decision on his/her employment contract termination.

#### **Article 73-f<sup>183</sup>**

During the notice period, the immediate manager shall enable the customs officer a leave of absence from work for the purpose of seeking new employment, for four hours during the working week.

#### **Article 73-g<sup>184</sup>**

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<sup>180</sup> Official Gazette of the Republic of Macedonia no. 53/2011

<sup>181</sup> Official Gazette of the Republic of Macedonia no. 53/2011

<sup>182</sup> Official Gazette of the Republic of Macedonia no. 53/2011

<sup>183</sup> Official Gazette of the Republic of Macedonia no. 53/2011

<sup>184</sup> Official Gazette of the Republic of Macedonia no. 53/2011

During the notice period and absence from work for the purpose of seeking new employment, a compensation in the amount of the salary earned by the customs officer in the month prior to the adoption of the decision for his/her employment contract termination shall be determined and paid to the customs officer.

#### **Article 73-h<sup>185</sup>**

(1) The decision imposing a disciplinary measure shall be made by the Director.

(2) The decision imposing a disciplinary measure shall also contain an explanation regarding the grounds and reasons for imposing such disciplinary measure.

#### **Article 73-i<sup>186</sup>**

(1) The disciplinary measure decisions shall be handed in personally to the customs officer, usually in the working premises of the organizational unit where he/she works, or at the address of the place of residence or accommodation from where the customs officer comes to work every day.

(2) If the customs officer cannot be found at the address of permanent or temporary residence or if he/she refuses to be served, the decision shall be published on the bulletin board in the organisational unit where he/she works. After eight working days as from its publication on the bulletin board, it shall be deemed that the decision has been served.

#### **Article 73-j<sup>187</sup>**

(1) The Director shall make the decision imposing a disciplinary measure on the customs officer within six<sup>188</sup> months as from the day of reporting the working order and discipline violation or failure to fulfil working obligations, and no later than one year<sup>189</sup> as from the day such violation was committed.

(2) The day of filing a motion by an authorized applicant for initiation of a procedure for disciplinary responsibility determination shall be deemed as the day of reporting.

(3) When a criminal procedure was also initiated against a customs officer regarding a disciplinary violation, the Director shall issue the disciplinary measure decision no later than the expiry of the limitation period determined by law relating to the respective crime committed.

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<sup>185</sup> Official Gazette of the Republic of Macedonia no. 53/2011

<sup>186</sup> Official Gazette of the Republic of Macedonia no. 53/2011

<sup>187</sup> Official Gazette of the Republic of Macedonia no. 53/2011

<sup>188</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>189</sup> Official Gazette of the Republic of Macedonia no. 43/2014

### **Article 73-k<sup>190</sup>**

(1) Customs officer shall have the right to appeal against the decision pronouncing a disciplinary measure within eight days as from the date of receipt of such decision. The appeal shall postpone the enforcement of the decision until a final decision is rendered upon such appeal. The appeal shall be filed through the Customs Administration to the Administration Agency.<sup>191192</sup>

(2) Customs Administration shall file the appeal along with its supporting documents to the Administration Agency<sup>193</sup> within a period no longer than seven days as from the day of receipt of such appeal.

(3) Customs officer may file a lawsuit against the decision of the Administration Agency's Committee deciding on administrative officers' appeals and objections in the second instance before a competent court within 15 days as from the date of receipt of such decision.<sup>194</sup>

(4) If the Administration Agency's Committee deciding on administrative officers' appeals and complaints in the second instance fails to reach a decision within eight working days of the receipt of such appeal, the customs officer shall be entitled to file a lawsuit before a competent court within 15 days after the expiration of these eight days.<sup>195</sup>

### **Article 73-l<sup>196</sup>**

(1) In order to conduct a procedure for determining the customs officer's disciplinary liability in the cases determined by this Law, the Director shall establish a Commission for determining disciplinary liability.

(2) The Commission referred to in paragraph (1) hereof shall be composed of a president and four members and their deputies.

### **Article 73-m<sup>197</sup>**

The Commission referred to in Article 73-l of this Law shall conduct the procedure for determining the customs officer's disciplinary liability in accordance with the Customs Administration's Collective Bargaining Agreement.

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<sup>190</sup> Official Gazette of the Republic of Macedonia no. 53/2011

<sup>191</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>192</sup> Official Gazette of the Republic of Macedonia no. 33/2015

<sup>193</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>194</sup> Official Gazette of the Republic of Macedonia no. 33/2015

<sup>195</sup> Official Gazette of the Republic of Macedonia no. 33/2015

<sup>196</sup> Official Gazette of the Republic of Macedonia no. 53/2011

### **Article 73-n<sup>198</sup>**

(1) The amounts withheld from customs officer's salary with regard to fines imposed on him/her in the course of one month may not exceed one third of his/her total net salary for that month.

(2) If the customs officer's employment is terminated with the Customs Administration where he/she was fined, the imposed fine shall be collected by the new employer or any competent authority in a procedure determined by law, at the request of the Customs Administration where such sanction was imposed.

## **3. Material Liability**

### **Article 74**

(1) Aside for the disciplinary liability, a customs officer is materially liable for damage in the work environment or related to work to the property used by the Customs Administration.

(2) The Republic of Macedonia is responsible for damage to the property of third persons caused by the Customs officer in the line of official duty unless proved that the Customs officer acted in accordance with law and other regulation.

## **VIII. AWARDS AND ACKNOWLEDGEMENTS**

### **Article 75**

(1) For long-term professional performance, organisational promotions, success in the performance of work tasks in specific areas of work, improvement of the reputation of the service, the officials or organisational units and other state administration authorities and other authorities, authorities of municipalities and of the city of Skopje, holders of public authorisations and individuals, are given acknowledgements, and the Customs Administration employees may also receive awards or monetary awards.

(2) The acknowledgements and awards referred to in paragraph (1) of this Article are customarily awarded on the day of the Customs Administration. The day of the Customs Administration is 14<sup>th</sup> April.

## **VIII. FINANCING**

### **Article 76**

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<sup>197</sup> Official Gazette of the Republic of Macedonia no. 53/2011

<sup>198</sup> Official Gazette of the Republic of Macedonia no. 43/2014

(1) The Customs Administration is financed from the Budget of the Republic of Macedonia and from its own incomes.

(2) The benefits, salaries, extra payments, incentives and bonuses determined under Article 24 paragraph (2) and Articles 67 through 71 of this Law are provided from the Budget of the Republic of Macedonia.

(3) The types and amount and the manner of allocation<sup>199</sup> of the Customs Administration's own incomes referred to in paragraph (1) of this Article shall be prescribed by the Minister of Finance on proposal by the Director and shall be used for the purposes of promotion, modernization and equipping of the Customs Administration, as well as for incentive payments for the Customs officers.

## **IX. PUNITIVE PROVISIONS**

### **Article 77**

(1) A fine of EUR 15,000 in Denar counter value shall be imposed for an offence committed by a legal person, i.e. individual trader acting contrary to Article 47 of this Law.<sup>200</sup>

(2) A fine amounting to 30% of the imposed fine against a legal entity i.e. individual trader shall be imposed for an offence referred to in paragraph (1) of this Article against the responsible person in the legal person and against the responsible person in the individual trader.<sup>201</sup>

(3) A fine from EUR 50 to EUR 500 in Denar counter value shall be imposed for the offence referred to in paragraph (1) of this Article committed by a natural person.

### **Article 78**

(1) A fine of EUR 1,000<sup>202</sup> shall be imposed for the offence committed by an authorised person in the state administration authorities and other state authorities, authorities of the municipalities and of the city of Skopje acting contrary to the provisions of Articles 19 and 20 of this Law.

(2) A fine from EUR 100 to EUR 1,000 shall be imposed for the offence committed by a post office official acting contrary to the provisions of Article 34 of this Law.

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<sup>199</sup> Official Gazette of the Republic of Macedonia no. 129/2015

<sup>200</sup> Official Gazette of the Republic of Macedonia no. 129/2015

<sup>201</sup> Official Gazette of the Republic of Macedonia no. 129/2015

<sup>202</sup> Official Gazette of the Republic of Macedonia no. 129/2015

### **Article 78-a<sup>203</sup>**

The assessment of the amount of the fine against a legal entity and individual trader is done by the Law on Misdemeanours.

## **XI. TRANSITORY AND FINAL PROVISIONS**

### **Article 79**

The proceedings initiated until the moment of entering into force of this Law shall be completed in accordance with the regulations applicable at the time they were initiated.

### **Article 80**

The by-laws prescribed with this Law shall be enacted within a year from the day of entry into force of this Law.<sup>204</sup>

### **Article 81**

The day this Law enters into force, the provisions of Articles 9 through 14, Article 23, Article 194, Article 195 and Article 200 of the Customs Law ('Official Gazette of the Republic of Macedonia no. 21/98, 26/98, 63/98, 86/99, 25/2000, 109/2000, 31/2001, 4/2002, 55/2002 and 42/2003) shall cease to be valid.

### **Article 82**

This Law shall enter into force on the eighth day following the date of its publication in the "Official Gazette of the Republic of Macedonia."

## **TRANSITORY AND FINAL PROVISIONS<sup>205</sup>**

### **Article 10<sup>206</sup>**

This Law shall enter into force on the eighth day following the date of its publication in the "Official Gazette of the Republic of Macedonia" except for Articles 2,3 and 4 of this Law which will become applicable on 1<sup>st</sup> September 2007.

### **Article 5<sup>207</sup>**

The Customs Administration shall take over both movable and immovable property of road traffic border crossings from the Public Enterprise for Management of Residential and

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<sup>203</sup> Official Gazette of the Republic of Macedonia no. 129/2015

<sup>204</sup> Official Gazette of the Republic of Macedonia no. 81/2005

<sup>205</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>206</sup> Official Gazette of the Republic of Macedonia no. 107/2007

<sup>207</sup> Official Gazette of the Republic of Macedonia no.103/2008



Commercial Properties of the Republic of Macedonia as of the seventh day of entry into force of this Law.

The Customs Administration shall take over the entire archive, technical and other documentation related to border crossing facilities and staff working on the management and maintenance of border crossing facilities and support to material, financial and personnel operations from the Public Enterprise for Management of Residential and Commercial Properties of the Republic of Macedonia within seven days as from the date of entry into force of this Law.

The Government shall form a Committee comprised of representatives of the Public Enterprise for Management of Residential and Commercial Properties of the Republic of Macedonia, the Ministry of Finance and the Customs Administration to identify the movable and immovable property of road traffic border crossings, archive, documentation and staff referred to in paragraphs 1 and 2 hereof within two days as from the date of entry into force of this Law.

#### **Article 6<sup>208</sup>**

This Law shall enter into force on the eighth day following the date of its publication in the "Official Gazette of the Republic of Macedonia".

#### **Article 9<sup>209</sup>**

The Customs Administration shall take over from the Public Revenue Office the entire archive, technical and other documentation related to excise duties as of 31 December 2009.

The Minister of Finance shall form a Committee comprised of representatives from the Ministry of Finance, the Customs Administration and the Public Revenue Office to determine and take over the documentation referred to in paragraph 1 hereof.

#### **Article 10<sup>210</sup>**

This Law shall enter into force on the eighth day following the date of its publication in the "Official Gazette of the Republic of Macedonia" and shall apply as of 1<sup>st</sup> January 2010.

#### **Article 3<sup>211</sup>**

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<sup>208</sup> Official Gazette of the Republic of Macedonia no. 103/2008

<sup>209</sup> Official Gazette of the Republic of Macedonia no. 105/2009

<sup>210</sup> Official Gazette of the Republic of Macedonia no. 105/2009

<sup>211</sup> Official Gazette of the Republic of Macedonia no. 158/2010

The Job Post Systematization Act of the Customs Administration shall be aligned with the provisions of this Law within 60 days of the entry into force of this Law.

#### **Article 4<sup>212</sup>**

This Law shall enter into force on the eighth day following the date of its publication in the "Official Gazette of the Republic of Macedonia" and shall apply as of 1<sup>st</sup> January 2010.

#### **Article 14<sup>213</sup>**

Procedures initiated for probation and for violation of the working order and discipline until the entry into force of this Law shall be completed according to the regulations in force at the time of bringing such procedures.

#### **Article 15<sup>214</sup>**

Regulations envisaged under this Law shall be adopted within one year as from the date of entry into force of this Law.

Acts for systematization and organization of the Customs Administration shall be harmonized within 30 days as from the date of entry into force of this Law.

#### **Article 16<sup>215</sup>**

The provisions of Article 53-a paragraph (4) set out in Article 5 of this Law, Article 56 paragraph (6) stipulated in Article 8 of this Law, Article 63-a paragraph (10) laid down in Article 10 of this Law and Article 73-g paragraph (1) defined in Article 13 of this Law shall apply as from the date of commencement of application of the Law establishing the State Commission deciding in administrative procedures and second instance employment procedures.

#### **Article 17<sup>216</sup>**

This Law shall enter into force on the eighth day following the date of its publication in the "Official Gazette of the Republic of Macedonia".

#### **Article 26<sup>217</sup>**

The by-laws stipulated by this Law shall be adopted within 6 months of the day of entry into force of this Law.

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<sup>212</sup> Official Gazette of the Republic of Macedonia no. 158/2010

<sup>213</sup> Official Gazette of the Republic of Macedonia no. 53/2011

<sup>214</sup> Official Gazette of the Republic of Macedonia no. 53/2011

<sup>215</sup> Official Gazette of the Republic of Macedonia no. 53/2011

<sup>216</sup> Official Gazette of the Republic of Macedonia no. 53/2011

### **Article 27<sup>218</sup>**

The Director General appointed until the day of start of application of Article 3 of this Law shall continue to hold office until the expiry of the mandate he/she was appointed for.

### **Article 28<sup>219</sup>**

Customs officers who were employed in the Customs Administration as of the date of commencement of application of this Law shall, to the Customs Administration Director, furnish proof of knowledge of a foreign language and a working knowledge of office administration computer programs adequate to their job level to which they were assigned as at the date of commencement of implementation of this Law within one year as from the date of accession of the Republic of Macedonia to the European Union.<sup>220</sup>

Customs officers who fail to furnish proof of knowledge of foreign languages and knowledge of office administration computer programs as per paragraph 1 hereof, by a decision of the Customs Administration Director General shall be assigned to a job that is one level lower than the position they were holding at the time of entry into force of this Law, except for customs officers who at the date of commencement of application of this Law were appointed to beginner's positions and shall be reduced their salaries by 10%.

Customs officers who, pursuant to paragraph 2 hereof, had their salaries reduced by 10%, may at any time submit evidence of knowledge of foreign languages and knowledge of office administration computer programs to the Customs Administration Director who shall take a decision repealing the decision decreasing their salary.

Paragraphs 1 and 2 hereof shall not apply to customs officers who will get retired within ten years as from the date of commencement of application of this Law.

The State Administration Inspectorate shall, within three months after the expiry of the period referred to in paragraph 1 hereof, inspect the implementation of paragraphs 1 and 2 hereof.

### **Article 29<sup>221</sup>**

Procedures initiated for customs officers relating to employment, disciplinary procedures and appraisal procedures until the date of entry into force of this Law, as well as

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<sup>217</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>218</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>219</sup> Official Gazette of the Republic of Macedonia no. 43/2014

<sup>220</sup> Official Gazette of the Republic of Macedonia no. 61/2015

<sup>221</sup> Official Gazette of the Republic of Macedonia no. 43/2014

complaints and appeals submitted to the Commission deciding in administrative procedures and second instance employment procedures by the date of commencement of application of this Law shall be completed according to the Law on Customs Administration ("Official Gazette of the Republic of Macedonia" no. 46/2004, 81/2005, 107/2007, 103/2008, 64/2009, 105/2009, 48/10, 158/10, 53/11 and 113/12).

**Article 30**<sup>222</sup>

The Legislative and Legal Committee of the Assembly of the Republic of Macedonia shall be authorized to prepare a consolidated text of the Law on Customs Administration.

**Article 31**<sup>223</sup>

The provisions of Article 3 of this Law shall be applied one year after the entry into force of this Law, except for the provisions concerning the requirement for knowledge of a foreign language that shall be applicable after two years of entry into force of this Law.

**Article 32**<sup>224</sup>

This Law shall enter into force on the eighth day of its publication in the "Official Gazette of the Republic of Macedonia" and it shall apply as from the date of commencement of application of the Law on Administrative Servants ("Official Gazette of the Republic of Macedonia" no. 27/14).

**Article 10**<sup>225</sup>

The Legislative and Legal Committee of the Assembly of the Republic of Macedonia shall be authorized to prepare a consolidated text of the Law on Customs Administration.

**Article 11**<sup>226</sup>

This Law shall enter into force on the eighth day following the date of its publication in the "Official Gazette of the Republic of Macedonia" and shall apply as of the day of start of application of the Law on Administrative Officers ("Official Gazette of the Republic of Macedonia" no 27/14), except for the provisions of Article 6 of this Law, the application of which shall start with the day of start of application of this Law.

**Article 7**<sup>227</sup>

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<sup>222</sup>Official Gazette of the Republic of Macedonia no. 43/2014

<sup>223</sup>Official Gazette of the Republic of Macedonia no. 43/2014

<sup>224</sup>Official Gazette of the Republic of Macedonia no. 43/2014

<sup>225</sup>Official Gazette of the Republic of Macedonia no. 167/2014

<sup>226</sup> Official Gazette of the Republic of Macedonia no. 167/2014

<sup>227</sup> Official Gazette of the Republic of Macedonia no. 33/2015

The provisions of Article 4 amending Article 69 of this Law and Article 6 amending Article 73-g of this Law shall apply as from the date of commencement of application of the Law on Administrative Servants ("Official Gazette of the Republic of Macedonia" no. 27/14 and 199/14).

**Article 8<sup>228</sup>**

This Law shall enter into force on the eighth day of its publication in the "Official Gazette of the Republic of Macedonia".

**Article 7<sup>229</sup>**

The by-laws stipulated by this Law shall be adopted within 30 days of the day of entry into force of this Law.

**Article 8<sup>230</sup>**

This Law shall enter into force on the eighth day of its publication in the "Official Gazette of the Republic of Macedonia".

**Article 16<sup>231</sup>**

The customs officer who was employed in the Customs Administration and assigned to a job which entails a vocational qualification under the Macedonian Qualifications Framework or ECTS as of the date of entry into force of this Law, and whose type of education is different from the type of education specified in the Job Systematization Act in line with Frascati Classification, shall be deemed to have met the requirements regarding the type of education in his/her reassignment or promotion.

**Article 17<sup>232</sup>**

The provisions of Articles 2,5, 8, 9 and 14 of this Law, shall become applicable with the entry into force of the Law on General Administrative Procedure, as stipulated by Article 141 of the Law on General Administrative Procedure (Official Gazette of the Republic of Macedonia no.124.15).

**Article 18<sup>233</sup>**

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<sup>228</sup>Official Gazette of the Republic of Macedonia no. 33/2015

<sup>229</sup>Official Gazette of the Republic of Macedonia no. 129/2015

<sup>230</sup>Official Gazette of the Republic of Macedonia no. 129/2015

<sup>231</sup>Official Gazette of the Republic of Macedonia no. 23/2016.

<sup>232</sup>Official Gazette of the Republic of Macedonia no. 23/2016.

This Law shall enter into force on the eighth day of its publication in the "Official Gazette of the Republic of Macedonia".

The provisions of Article 6 paragraph (5) item 5) of the Law on the Customs Administration ("Official Gazette of the Republic of Macedonia" No. 46/04, 81/05, 107/07, 103/08, 64/09, 105/09, 48/10, 158/10, 53/11, 113/12, 43/14, 167/14, 33/15, 61/15, 129/15 and 23/16) and the provisions of Article 2 of this Law with which Article 6 paragraph (5) item 5) shall be supplemented by a new indent 6, shall not apply from the day of entry into force of this Law until 1 September 2018<sup>234</sup>

#### **Article 18**<sup>235</sup>

(1) The Director General and the Deputy Director General who were appointed within the period as from the date of entry into force of this Law until 1 September 2018 shall meet the requirement of knowledge of a foreign language no later than one year after the date of their appointment.

(2) The Director General and the Deputy Director General who fail to meet the requirement of knowledge of a foreign language within the period specified in paragraph (1) hereof shall be terminated their office.

#### **Article 19**<sup>236</sup>

(1) The provisions of Articles 3 and 4 of this Law, modifying the provisions of Article 8-a paragraph (2) point 4 indent 3 and Article 8-b paragraph (2) point 4 indent 3 of the Customs Administration Law, which refer to the knowledge of one of the three most commonly used languages in the European Union (English, French, German), shall be applicable as from 25 July 2018.

(2) Customs officers who were employed as from the date of entry into force of this Law until the commencement of application of the provisions of paragraph (1) hereof shall pass the part of their professional exam relating to their knowledge of one of the three most commonly used languages in the European Union (English, French, German) implemented by the Administration Agency within one year as from the date of entry into force of this Law.

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<sup>233</sup> Official Gazette of the Republic of Macedonia no. 120/18

<sup>234</sup> Official Gazette of the Republic of Macedonia no. 120/2018

<sup>235</sup> Official Gazette of the Republic of Macedonia no. 120/2018

<sup>236</sup> Official Gazette of the Republic of Macedonia no. 120/2018

(3) Candidates for customs officers and customs officers referred to in paragraph (2) hereof who have acquired an internationally recognized certificate or internationally used certificate by the date of entry into force of this Law shall not take the part of their professional exam relating to their knowledge of one of the three most commonly used languages in the European Union (English, French, German) until the expiry of the validity of such certificate acquired.

(4) Customs officers who fail to pass the part of their exam relating to their knowledge of one of the three most commonly used languages in the European Union (English, French, German) within the period specified in paragraph (2) hereof shall have their employment terminated.

**Article 20<sup>237</sup>**

Customs officers who by the date of entry into force of this Law were assigned to the position of Assistant Director and Manager shall, upon prior approval by the Minister of Finance, continue to work in these positions until the end of the period for which they were appointed or until they are appointed to other work places.

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<sup>237</sup>Official Gazette of the Republic of Macedonia no. 120/2018