CHAPTER 203

CARGO CLEARANCE AND TRANSPORT ACT

To regulate cargo clearance and transport.

11th November, 1967

ACT XXIX of 1967, as amended by Acts VIII of 1976, XIII of 1983 and IX of 2003; and Legal Notice 411 of 2007.

Short title.

1. The short title of this Act is the Cargo Clearance and Transport Act.

Interpretation. *Amended by: VIII. 1976.2; IX. 2003.18.*

2. In this Act, unless the context otherwise requires -

"cargo" means goods which have been imported or which are to be exported;

"cargo clearance and forwarding agent" means any person who is the holder of a customs permit and whose business is the following:

(*a*) the making of customs declarations and the clearing through the Customs Department of documents relating to cargo; and

(*b*) the withdrawal of cargo from any customs shed, bonded store, warehouse, verandah, quay or other place of deposit and the transport of such cargo therefrom to a place of consignment; and

(*c*) the withdrawal of cargo from any factory, warehouse or other premises and the transport of such cargo therefrom to a quay or other place of deposit for shipment;

"Comptroller" means the Comptroller of Customs;

"holder of a customs permit" means a person duly authorised under this Act to act as a cargo clearance and forwarding agent;

"Minister" means the Minister responsible for Customs;

"person" includes a body of persons;

"transport" does not include the movement of cargo from any customs shed, bonded store, warehouse, verandah, quay or other place of deposit in a port to any other of such places or the carriage of cargo by water, and its derivatives shall be construed accordingly.

Cargo clearance and forwarding agents to be authorised. *Amended by: IX. 2003.19.*

3. (1) No person shall act as a cargo clearance and forwarding agent except under and in accordance with a customs permit granted in that behalf by the Comptroller.

(2) Every such customs permit shall expire on the thirty-first day of December next following the date of issue, but may be renewed by the Comptroller from year to year:

Provided that it shall be lawful for the Comptroller at any time to revoke any customs permit granted or renewed under this Act.

(3) Every such customs permit shall be issued or renewed against the payment of such fee as the Comptroller, with the concurrence of the Minister, may establish, and shall contain the terms, conditions and restrictions on and subject to which the customs permit is granted.

(4) The holder of a customs permit must at all times be in possession of an operator's permit issued by the Authority for Transport in Malta.

Deposit by holder of a customs permit or production of bank guarantee. *Amended by: VIII. 1976.3; XIII. 1983.5; IX. 2003.19; L.N. 411 of 2007.*

4. (1) No customs permit shall be issued or renewed unless the holder of a customs permit deposits with the Comptroller a sum of not less than two hundred and thirty-two euro and ninety-four cents (232.94) and not more than two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37) as the Comptroller may determine or a bank guarantee for a like amount issued by a local bank and made payable at call to the Comptroller.

(2) Such deposit or bank guarantee shall be required to cover any payment or part payment of duty on cargo in respect of which customs entries are presented by a holder of a customs permit, and the Comptroller shall have power to draw from such deposit or guarantee any amount in payment or part payment of duty as aforesaid.

(3) Nothing in this article shall be construed as limiting in any manner the responsibility of the holder of a customs permit in respect of duty.

Notice by Comptroller of drawing on deposit or guarantee. *Amended by: VIII. 1976.4; IX. 2003.19.*

5. Any holder of a customs permit whose deposit or bank guarantee has been drawn upon under the provisions of article 4(2) shall be given an account in writing of the amount so drawn from his deposit or guarantee and, upon being so required by the Comptroller, he shall, within the time specified in the request, bring up such deposit or guarantee to the amount previously required by the Comptroller to be deposited or guaranteed in his favour under the provisions of article 4(1).

Failure of compliance with deposit or guarantee requirements. *Amended by: VIII.1976.5; IX. 2003.19.*

6. Where a holder of a customs permit fails to comply with a request made under article 5, his customs permit shall be deemed to have been revoked.

Holder of customs permit to be duly authorized. *Amended by: IX. 2003.19.*

7. A holder of a customs permit may not act as clearing and forwarding agent for and on behalf of any person unless he is authorized in writing so to act by that person and produces that authority to the Comptroller.

Power to make regulations. *Amended by: VIII. 1976.6; IX. 2003.19.*

8. (1) The Minister may make regulations for carrying into effect the provisions of this Act and, without prejudice to the generality of the foregoing, for prescribing -

(*a*) the manner in which the business of cargo clearance and forwarding agents may be regulated, restricted or otherwise controlled;

(*b*) the type and quantity of equipment, including road transport vehicles, which may be used by cargo clearance and forwarding agents;

(*c*) the age, minimum standard of education and other qualifications required before a person can be authorised under this Act;

(*d*) without prejudice to the general power conferred by article 3(3), the circumstances in which a customs permit granted or renewed under this Act may be revoked;

(*e*) the fees to be charged by and, or, to be paid to cargo clearance and forwarding agents for their services, including the use of any means of transport and of any equipment.

(2) The power of the Minister to charge fees under this article shall include the power to prescribe different fees for different services and to prescribe minimum and, or, maximum fees or fixed fees.

Exemption. *Amended by: IX. 2003.19, 21, 22.*

9. Nothing in this Act shall be construed as precluding an importer or exporter or owner of any cargo from personally making customs declarations or from withdrawing and, or transporting any cargo imported or to be exported by him, or belonging to him, as the case may be, from or to any customs shed, bonded store, warehouse, verandah, quay or other place of deposit, or from having such transactions or services performed for him and on his behalf by his own regular employees duly authorized by him:

Provided that it shall not be lawful for any importer, exporter or owner of any cargo to cause such cargo to be transported from or to any such place as aforesaid, otherwise than through the services of a cargo clearance and forwarding agent duly authorised in that behalf, unless he uses for that purpose means of transport belonging to him and, where so required by the Comptroller, satisfies the Comptroller before the goods are so transported that he is the importer, exporter or owner, as the case may be, of such cargo.

Offences and penalties. *Amended by: VIII. 1976.7; XIII. 1983.5; IX. 2003.21, 23; L.N. 411 of 2007.*

10. (1) Any person acting in contravention of any of the provisions of articles 3, 7 or 9 or of any regulations made under this Act shall be guilty of an offence under this Act and shall on conviction be liable to a fine (*multa*) not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37) or to imprisonment for not more than six months or to both such fine and imprisonment.

(2) Where an offence under this Act is committed by a body of persons, every person who, at the time of the commission of the offence, was a director, manager, secretary or other similar officer of such body of persons or was purporting to act in any such

capacity shall be guilty of that offence unless he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence.

Relation with Import Duties Act. *Added by: IX. 2003.24.* Cap. 337.

11. Nothing in this Act shall derogate from any of the provisions of the Import Duties Act.