CHAPTER 381

BUNKERING (FUELS) TAX ACT

To regulate the issuing of licences to bunker operators and to levy a tax on fuels supplied for bunkering.

28th April, 1995

ACT VIII of 1995, as amended by Act XXV of 2000; Legal Notice 425 of 2007; and Acts XV of 2009, V of 2012, III of 2013, XII of 2014 and XXV of 2015.

1. The short title of this Act is the Bunkering (Fuels) Tax Act. Short title.

2. In this Act unless the context otherwise requires - Interpretation. *Amended by: XV. 2009.49; V. 2012.48.*

"Authority" means the Authority for Transport in Malta established under the Authority for Transport in Malta Act and includes any officer or employee of the Authority; Cap. 499.

"bunkering" means the loading, discharging and transferring of fuels between a bunker barge or a road tanker or a marine terminal or a marine facility or any two or more of the preceding, to a receiving ship where those fuels are for fuelling the same ship or its machinery;

"Combined Nomenclature" means Annex 1 to Council Regulation (EEC) No. 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff;

"Customs" means the Comptroller of Customs and includes any officer or employee of his department having an expressed or implied authority to act for the Comptroller;

"fuel" means any non-volatile marine grade fuel oil used to fuel a ship or its machinery and includes lubricating oil and also those products falling under subheadings 2710.19.43 to 2710.19.48 or 2710.20.11 to 2719.20.19 or under subheadings 2710.19.62 to 2710.19.68 or 2710.20.31 to 2710.20.39 of the Combined Nomenclature;

"Minister" unless otherwise stated means the Minister responsible for finance;

"ship" means every description of vessel of any size used in navigation, whether self propelled or not, and includes barges, oil rigs, pontoons and any other craft and similar vessels.

3. There shall be charged and levied by Customs on account of the Government of Malta a tax on fuels listed in the Schedule to this Act, supplied free from customs and other duties, for bunkering to ships, at the rates shown in the Schedule to this Act. Levy of tax.

4. (1) The payment of the tax shall be due immediately upon the release of the fuel from the bonded installation, marine terminal or marine facility on the quantity of fuel measured or calculated by Customs as having been released. Time and manner of payment of tax.

(2) Notwithstanding the provisions of subarticle (1), Customs may make arrangements, subject to such guarantees and conditions as it may impose, for the payment of the tax leviable under this Act otherwise than on the release of fuels as mentioned in subarticle (1) hereof, and at such intervals as may be agreed.

Responsibility for bunkering of fuels.

5. (*deleted by XXV.2000.36*).

Grant of licences by regulatory authority. *Substituted by: XXV. 2000.36. Amended by: XXV. 2015.41.* Cap. 545.

6. No person shall distribute, sell, export or dispose in any other manner fuels supplied for bunkering unless under a licence issued by, or agreement or arrangement made with, the Regulator for Energy and Water Services in terms of the Regulator for Energy and Water Services Act.

Power to make regulations. *Amended by: XXV. 2000.36; L.N. 425 of 2007; V. 2012.49.*

7. (1) The Minister may by notice in the Gazette amend or substitute the rates of tax appearing in the Schedule to this Act:

Provided that the Minister may not by such notice increase the rate of tax leviable in accordance with this Act to more than ten euro (€10.00) per metric ton or part thereof.

(2) The Minister responsible for ports may, in consultation with the Authority, and with the concurrence of the Minister make regulations with respect to any matter which may be or is required to be prescribed by this Act and with respect to any other matter which may appear to be necessary or expedient for the better carrying out of the provisions of this Act.

Power of the Authority, of the Police and Customs.

8. (1) The release of fuel for bunkering shall take place under the supervision of Customs. The Authority shall have the right to supervise any bunkering operations and may impose charges for such supervision as may be prescribed by regulations.

(2) It shall be lawful for any officer of the Authority, Police or Customs to inspect at any time any place where fuel is stored or handled to ensure that the provisions of this Act are being complied with and that there is no evasion of the tax, fees and charges imposed by this Act.

Offences and penalties. *Amended by: L.N. 425 of 2007.*

9. (1) Any person who -

(*a*) is in any way concerned in any fraudulent evasion or attempt at evasion of any tax imposed by this Act; or

(*b*) aids, abets or assists in the commission of the offences referred to in the foregoing paragraph; or

(*c*) wilfully obstructs, impedes or delays any Authority, Customs or Police officer in the execution of his duties and powers under this Act; or

(*d*) contravenes any other provision of this Act,

shall be guilty of an offence and shall for every such offence be liable, on conviction by the Court of Magistrates, to a fine (*multa*) equivalent to twice the value of the fuel and the tax on the said fuel involved in the offence, or two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37), whichever is

the higher.

(2) The liability imposed by subarticle (1) shall be without prejudice to any other liability imposed by any other law for the same offence.

Exemption or refund of tax.

10. The Minister may by order, and, subject to such limitations in such order, exempt any person from the payment of the tax imposed by this Act or allow the refund of such tax.

SCHEDULE

Substituted by: L.N. 425 of 2007; V. 2012.50; III. 2013.56; XII. 2014.69.

(Article 3)

Fuel falling under sub-headings 2710.19.43 to 2710.19.48 or 2710.20.11 to 2710.20.19 of the Combined Nomenclature; a tax of one euro and twenty-eight cents (€1.28) per metric ton or part thereof.

Fuel falling under sub-headings 2710.19.62 to 2710.19.68 or 2710.20.31 to 2710.20.39 of the Combined Nomenclature; a tax of eighty-two cents (€0.82) per metric ton or part thereof.
