

I assent.

(L.S.)

ĊENSU TABONE
President

12th December, 1989

ACT No. XXXVI of 1989

AN ACT to amend the Customs Ordinance, Cap. 37

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the Customs (Amendment) Act, 1989, and shall be read and construed as one with the Customs Ordinance hereinafter referred to as “the principal law”.

Short title
and
commencement.
Cap. 37.

(2) This Act shall come into force on such date as the Minister responsible for customs may by notice in the Gazette establish and different dates may be so established for different provisions and purposes of this Act.

2. Section 60 of the principal law shall be amended as follows:

Amendment of
section 60
of the
principal law.

(a) for the words “within the limits of Malta,” in paragraph (h) thereof, there shall be substituted the words “within the limits of Malta; or”; and

(b) immediately after paragraph (h) thereof there shall be added the following paragraphs:

“(i) if any goods imported free of duty by any person as is mentioned in section 6 of the Import Duties Act, 1989 are sold or disposed of for use or consumption in Malta and a perfect entry thereof is not made within the terms fixed in subsection (3) of section 6 of the said Act by the person liable to duty thereon in terms of the said section; or

(j) if any goods imported or taken out of bond in terms of subparagraph (ii) of paragraph (d); of subsection (2) of section 17 of the Import Duties Act, 1989 are not re-exported within the time stipulated in accordance with the same subparagraph; or

(k) if any goods are imported by any person who is knowingly concerned in any fraudulent evasion or attempt at evasion of any duties of customs, or of the laws and restrictions of customs, relating to importation, unshipping, transshipping, landing and delivery of goods or otherwise contrary to this Ordinance.”.

Amendment
of section 61
of the principal
law.

3. For section 61 of the principal law there shall be substituted the following:

“Goods in
excess of
supplier’s
invoice.

61. (1) If at the time of examination by an officer of customs any goods are found in excess of, or different to, those appearing on the supplier’s invoice or declared by the importer or his agent, then, notwithstanding any other provision of law, such goods found in excess or such different goods shall be forfeited and

(a) where the value of the goods so found in excess or different is five hundred Maltese liri or over, such goods so forfeited shall be disposed of in such manner as the Minister responsible for customs may direct; and

(b) where the value of the goods so found in excess or different is less than five hundred Maltese liri such goods so forfeited shall be disposed of as the Comptroller of Customs may direct.

Such forfeiture shall be without prejudice to any action which may be taken against the importer or his agent, or against both, in virtue of any other provisions of law.

(2) The provisions of subsection (1) of this section shall not apply where the competent authority is satisfied that the discrepancy was due to a genuine error.

(3) For the purposes of subsection (2) of this section “competent authority” means where the value of the goods found in excess or different to those appearing in the supplier’s invoice or declared by the importer or his agent;

(a) is five hundred Maltese liri or more, the Minister responsible for customs;

(b) is less than five hundred Maltese liri, the Comptroller of Customs.”.

4. Section 62 of the principal law shall be amended as follows:

Amendment of
section 62
of the
principal law.

(a) for the words "which is false in a material particular," in paragraph (m) thereof, there shall be substituted the words "which is false in a material particular; or"; and

(b) immediately after paragraph (m) thereof, there shall be added the following paragraph:

"(n) fails within the time stipulated in subsection (3) of section 6 of the Import Duties Act 1989, to make a proper entry of any goods on which he is liable to pay duty in terms of subsection (2) of the said section,".

5. Immediately after section 63 of the principal law there shall be added the following new section:

Addition of
new section
63A to the
principal law.

Extinction
of criminal
liability
in certain
cases.

63A. (1) Notwithstanding any other provision of this Ordinance, the Comptroller may, only as far as the provisions of this Ordinance are concerned, enter into an agreement in writing with the offender whereby the said offender pays a sum equivalent to the fine (*multa*) that would be due by way of penalty in accordance with the provisions of this Ordinance, and upon the signing of any such agreement by the Comptroller and the offender, all criminal liability of the offender under this Ordinance, with regard to the offences in relation to which the agreement has been entered, shall be extinguished:

Provided that any forfeiture contemplated in the Ordinance as a consequence to the offence to which the agreement relates, shall notwithstanding such agreement, still take effect unless the offender elects to pay also to the Comptroller, a sum equivalent to the value of the goods forfeited together with any amount of duty or levy due thereon. Such value shall be determined in accordance with the provisions of the Import Duties Act, 1989.

(2) The provisions of subsection (1) of this section shall apply also in any case where the offender has been charged before a Court in relation to the offence, but before final judgement has been given in the case:

Provided that where proceedings before a Court have not been commenced, the sum payable in accordance with any agreement as contemplated in subsection (1) of this section shall be reduced by ten per centum.

(3) The provisions of subsection (1) of this section shall not apply in relation to an offence concerning goods mentioned in the Schedule to this Ordinance.

(4) Any sum due in virtue of an agreement entered into in terms of subsection (1) of this section, shall be due to the Government as a civil debt. The Comptroller shall not enter into an agreement as is referred to in subsection (1) of this section, unless such agreement is accompanied by the payment of the sum due or a sufficient security for its payment.”.

Passed by the House of Representatives at Sitting No. 304 of the 13th November, 1989.

LAWRENCE GONZI
Speaker

P. MUSCAT TERRIBILE
Clerk to the House of Representatives