

I assent.

(L.S.)

AGATHA BARBARA
President

8th November, 1985

ACT No. XIX of 1985

AN ACT further to amend the Customs Ordinance, Cap. 60.

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:—

Short title.

1. This Act may be cited as the Customs (Amendment) Act, 1985, and shall be read and construed as one with the Customs Ordinance, hereinafter referred to as “the principal law”.

Amendment of
section 3 of
the principal
law.

2. Section 3 of the principal law shall be amended as follows:

(a) for subsection (1) thereof there shall be substituted the following:

“(1) No vessel arriving at these Islands from any place beyond the seas, shall enter any port in these Islands other than the Grand Harbour, Marsamxett Harbour or solely for the purpose of loading or unloading cargo or containers as defined in section 18A of the Import Duties Act, 1976, Marsaxlokk Harbour, save with the permission of the Comptroller.”; and

(b) in subsection (2) thereof, for the words “not exceeding fifty pounds and not less than two pounds” there shall be substituted the words “of not less than one hundred Maltese liri but not exceeding one thousand Maltese liri”.

Amendment of
section 4 of
the principal
law.

3. In subsection (2) of section 4 of the principal law, for the words “not exceeding fifty pounds, and not less than two pounds” there shall be substituted the words “of not less than one hundred Maltese liri but not exceeding one thousand Maltese liri”.

Amendment of
section 5 of
the principal
law.

4. In subsection (2) of section 5 of the principal law, for the words “of not less than ten pounds but not exceeding fifty pounds” there shall be substituted the words “of not less than one hundred Maltese liri but not exceeding one thousand Maltese liri”.

5. Section 6 of the principal law shall be amended as follows :

Amendment of
section 6 of
the principal
law.

(a) in subsection (1) thereof, for the words "in the Form No. 1 annexed hereto, and containing the several particulars indicated therein or required thereby, or in such other form and manner as the Minister responsible for customs may, by regulations under this Ordinance, direct;" there shall be substituted the words "in such form or forms as the Minister responsible for customs may by regulations prescribe, and containing the several particulars indicated in such form or forms or required thereby"; and

(b) in subsection (4) thereof, for the words "not exceeding fifty pounds and not less than two pounds" there shall be substituted the words "of not less than one hundred Maltese liri but not exceeding one thousand Maltese liri".

6. Section 7 of the principal law shall be amended as follows :

Amendment of
section 7 of
the principal
law.

(a) in subsection (2) thereof for the words "in the prescribed form, so far as the same may be applicable, or in such other form or manner as the Minister responsible for customs may direct" there shall be substituted the words "in the form prescribed by or under section 6 or by other forms referred to in this Ordinance, as far as the same may be applicable, or in such form or forms as the Minister responsible for customs may by regulations prescribe"; and

(b) in subsection (3) thereof, for the words "not exceeding fifty pounds and not less than two pounds" there shall be substituted the words "of not less than one hundred Maltese liri but not exceeding one thousand Maltese liri".

7. In section 8 of the principal law, for the words "not exceeding fifty pounds, and not less than two pounds" there shall be substituted the words "of not less than one hundred Maltese liri but not exceeding one thousand Maltese liri".

Amendment of
section 8 of
the principal
law.

8. Immediately after section 8 of the principal law there shall be added the following new sections :

Addition of
new sections
8A, 8B and 8C
to the principal
law.

"Goods
loaded
in con-
tainers.

8A. (1) Any container loaded with goods discharged from any vessel shall immediately on landing be secured with seals and fastenings to be affixed by or under the instructions and supervision of the Comptroller.

(2) No container loaded with goods shall be laden on to any vessel unless it is previously secured with seals and fastenings to be affixed on the instructions and under the supervision of the Comptroller at such place or places as he may determine.

(3) Where in the opinion of the Comptroller such seals and fastenings cannot be conveniently affixed, the provisions of subsections (1) and (2) of this section shall not apply.

(4) The Comptroller may direct that any container secured with seals and fastenings affixed on his instructions and under his supervision as aforesaid shall be under Customs escort during every transportation from one place to another, but such escort shall in all cases be compulsory where any container is not so secured.

(5) No person shall remove, alter, break or destroy, or attempt or cause or permit to be removed, altered, broken or destroyed, any seals or fastenings affixed on any container except in the presence and under the instructions of the Comptroller, and on presentation, as required by the provisions of this Ordinance, to the Comptroller, of the goods manifest of such container or of the appropriate bill or bills of entry in respect of the goods loaded therein, as the case may be, duly signed by the Comptroller.

(6) (a) Notwithstanding the provisions of subsection (5) of this section, the Comptroller may, at any time remove or break any seal or fastening affixed on any container and open that container, in the presence of an officer of the Police not below the rank of Inspector, and the provisions of section 66A shall apply to any such removal, breaking or examination.

(b) Upon the removal or breaking of any seals or fastenings and the opening of any container in accordance with the provisions of this subsection, the Comptroller shall make a report of such removal, breaking and opening and the circumstances thereof, and shall, where appropriate, close the container and secure it by affixing thereon seals and fastenings. The report shall be countersigned by the officer of the Police in whose presence the removal, breaking or opening has occurred.

(c) Whenever such seals and fastenings affixed on a container are removed, or a container is opened by the Comptroller in accordance with the provisions of this subsection but not in the presence of the consignee of the container or his agent, the report referred to in this subsection shall within ten days from such event be transmitted to that consignee, if known, either by delivering the same to him personally, or by letter addressed to him and transmitted by registered post to, or delivered at, his last known place of abode or business in Malta.

Groupage
containers.

8B. (1) A container loaded with goods imported by two or more persons shall be unloaded for the immediate placing of those goods in a warehouse, place of security or landing place approved or appointed under the provisions of this Ordinance, and the person who is the consignee of that container shall before commencing or causing or permitting the unloading of goods from the container, deliver to the Comptroller the goods manifest of the container in the form or forms as the Minister responsible for customs may by regulations prescribe, giving the particulars indicated in such form or forms or required thereby; and such goods manifest shall be delivered before any seals and fastenings affixed on such container are removed, altered, broken or destroyed.

(2) Where any person delivers to the Comptroller any goods manifest and the same is inaccurate in any material particular, he shall be liable to a fine (*multa*) of not less than one hundred Maltese liri but not exceeding one thousand Maltese liri.

(3) All goods falsely described in the goods manifest shall be forfeited.

(4) All goods which are not duly declared in the goods manifest may be detained by an officer of the Customs until so declared, and until the omission is explained to the satisfaction of the Minister responsible for customs, and may in the meantime be removed to a Government warehouse.

Illegal
breaking
of seals.

8C. (1) Any person who removes, alters, breaks or destroys or attempts or causes or permits to be removed, altered, broken or destroyed any seal or fastening affixed on any container except in accordance with the provisions of subsection (5) or (6) of section 8A shall in addition to any other punishment to which he may be liable under this or any other law, be liable, to a fine (*multa*) of not less than one hundred Maltese liri but not exceeding one thousand Maltese liri.

Act XXV
of 1976.

(2) For the purposes of this section and of sections 8A and 8B the word "container" shall have the same meaning assigned to it in section 18A of the Import Duties Act, 1976, and includes a commercial road vehicle as therein defined."

9. In section 12 of the principal law for the words from "in the Form No. 2, 3 or 4 annexed hereto" up to "or are intended for immediate exportation;" there shall be substituted the words "in such form or forms as the Minister responsible for customs may by regulations prescribe;"

Amendment of
section 12 of
the principal
law.

10. In subsection (1) of section 13 of the principal law for the words from "in the Form No. 5" up to "as the Minister responsible for customs may direct" there shall be substituted the words "in such form or forms as the Minister responsible for customs may by regulations prescribe, and containing the several particulars required in such form or forms."

Amendment of
section 13 of
the principal
law.

11. Immediately after section 14 of the principal law there shall be added the following new section:

"Mode of
levying
duty on
goods
delivered
by bill of
sight.

14A. Notwithstanding the provisions of sections 13 and 14 of this Ordinance, whenever goods are delivered by bill of sight the amount of duty levied when making the perfect entry shall, without prejudice to any right of remittance of duty in accordance with section 18A of the Import Duties Act, 1976, be calculated on the quantity of the goods shown on the relative invoice or on the quantity of the goods endorsed on such bill of sight by an officer of the Customs and countersigned by the importer or his agent, whichever quantity shall be the greater."

Addition of
new section
14A to the
principal law.

12. In subsection (3) of section 16 of the principal law, for the words "not exceeding fifty pounds" there shall be substituted the words "of not less than one hundred Maltese liri but not exceeding one thousand Maltese liri".

Amendment of
section 16 of
the principal
law.

13. Immediately after section 17 of the principal law there shall be added the following new section:

"Unclaimed
goods and
baggage.

17A. (1) If any goods, including passengers' baggage, which are brought to any place where passengers' baggage is examined by Customs are not cleared forthwith from, or

Addition of
new section
17A to the
principal law.

otherwise declared to, Customs, the same shall be forfeited and shall be disposed of as the Minister responsible for customs may direct.

(2) The provisions of the preceding subsection shall not apply to goods or baggage which were intended for another destination and were brought to Malta in error, and to goods or baggage which arrive in Malta unaccompanied by the person for whose use they are intended:

Provided that in any such case the carrier or his agent shall, if so required by the Comptroller, certify in writing the facts of the case:

Provided further that when such goods or baggage remain unclaimed for a period of eight days from the date of their arrival in Malta they shall be forfeited and shall be disposed of as the Minister responsible for customs may direct.”.

Amendment of
section 19 of
the principal
law.

14. Immediately after subsection (2) of section 19 of the principal law there shall be added the following new subsections:

“(3) If the importer of any goods deposited in a warehouse appointed by virtue of the provisions of subsection (1) of section 27, other than a warehouse appointed exclusively for the deposit of goods belonging to a specified person, does not within the period of fifteen days from such deposit withdraw the same, any officer of Customs may remove such goods and convey them to a Government warehouse at the expense of such importer.

(4) If at the expiration of the period of fifteen days mentioned in subsection (3) of this section, such goods are not withdrawn and are not so deposited, they shall for the purpose of the payment of store-rent fixed by regulations under this Ordinance, be deemed to have been deposited in a Government warehouse on the expiration of the said period.”.

Amendment of
section 20 of
the principal
law.

15. Section 20 of the principal law shall be amended as follows:

(a) in subsection (1) thereof, for the words “and the produce thereof applied to the discharge of freight, duties and charges, and the overplus, if any, shall be paid to the proprietor of the goods on his application for the same.” there shall be substituted the words “and the produce thereof shall be applied to the discharge of —

- (a) any expense incurred in connection with the sale;
- (b) the duty leviable on such goods as are sold to be entered for home use or consumption;
- (c) any store-rent due to the Government;
- (d) the expense of removal of the goods to the Government warehouse;
- (e) the landing and other charges; and
- (f) the freight.”;

(b) for subsection (2) thereof there shall be substituted the following:

“(2) Payment of the items listed in paragraphs (a) to (f) of subsection (1) of this section shall be effected in the same order of priority therein set out so that each item will be paid

in preference to the next following item even if the proceeds are not sufficient for the payment of one or more of the items.”; and

(c) immediately after subsection (2) thereof there shall be inserted the following new subsections:

“(3) Where, however, the goods cannot be sold for a sufficient sum to discharge the debts due in paragraphs (a), (b), (c) and (d) of subsection (1) of this section the property of such goods shall vest in the Government by way of settlement of those debts and shall be disposed of as the Minister responsible for customs may direct.

(4) The overplus, if any, after discharging the debts set out in paragraphs (a) to (f) of subsection (1) of this section shall be paid to the proprietor of the goods on his application for the same.”.

16. Immediately after section 22 of the principal law there shall be added the following new section:

Addition of new section 22A to the principal law.

“Goods showing signs of deterioration.

22A. (1) Where any goods are brought into or deposited in a Government warehouse and subsequently show signs of deterioration, or may in the opinion of the Comptroller cause damage to other goods or to the building, the Comptroller may order that the same be withdrawn therefrom against payment of import duty and all charges due, within such period as may be fixed by him, and if such goods are not withdrawn within that period then the goods shall be destroyed at the expense of their proprietor.

(2) The provisions of subsection (1) of this section shall apply also to goods which are regularly warehoused notwithstanding any unexpired period of such warehousing.”.

17. In section 26 of the principal law, for the words “not exceeding fifty pounds, and not less than two pounds” there shall be substituted the words “of not less than one hundred Maltese liri but not exceeding one thousand Maltese liri”.

Amendment of section 26 of the principal law.

18. Section 27 of the principal law shall be amended as follows:

Amendment of section 27 of the principal law.

(a) subsections (2) and (3) thereof shall be renumbered respectively as subsections (3) and (4); and

(b) immediately after subsection (1) thereof there shall be inserted the following new subsection:

“(2) Where any goods are deposited in any place approved or appointed as aforesaid but are not produced at the request of an officer of the Customs, then the person having the custody of the goods shall, in addition to the payment of store-rent and other charges, if any, in respect of those goods and to any penalty to which he may be liable under the provisions of this Ordinance or of any other law, be liable for the payment of import duty due on such goods.

For the purposes of this subsection any store-rent due shall be calculated up to the date of such request.”.

Amendment of section 35 of the principal law.

19. For subsection (3) of section 35 of the principal law there shall be substituted the following:

"Goods not worth the duty shall be disposed of. (3) If such goods are not worth the duty, then the same, after one month's notice as aforesaid, shall be disposed of as the Minister responsible for customs may direct."

Amendment of section 37 of the principal law.

20. In section 37 of the principal law immediately after the words "a Customs House Schedule" there shall be added the words "in such form or forms as the Minister responsible for customs may by regulations prescribe," and for the words "the Custom House, and according to Form A annexed hereto" there shall be substituted the words "the Custom House."

Amendment of section 46 of the principal law.

21. For subsection (1) of section 46 and the marginal note thereof of the principal law there shall be substituted the following:

"Bill of entry for exportation. (1) The exporter of goods for which no bond is required shall, within twenty-four hours after the final clearance outwards of the exporting vessel, either by himself or his agent, deliver to the Comptroller a bill of entry in such form or forms as the Minister responsible for customs may by regulations prescribe, and containing the several particulars indicated in such form or forms, or required thereby, and shall subscribe such bill of entry, and on the demand of the Comptroller shall produce the invoices, bills of lading and other documents relating to the goods to test the accuracy of such bill of entry; and on failure to comply with any of the foregoing requirements the exporter or his agent shall for each such offence be liable to a fine (*multa*) of not less than one hundred Maltese liri but not exceeding one thousand Maltese liri; and if any of the particulars contained in any such bill are inaccurate the person subscribing the bill shall be liable to a fine (*multa*) of not less than one hundred Maltese liri but not exceeding one thousand Maltese liri."

Amendment of section 47 of the principal law.

22. In section 47 of the principal law for the words "of five pounds" there shall be substituted the words "of not less than one hundred Maltese liri but not exceeding one thousand Maltese liri".

Amendment of section 51 of the principal law.

23. In subsection (3) of section 51 of the principal law for the words "twenty-five pounds" there shall be substituted the words "two hundred and fifty Maltese liri".

Amendment of section 52 of the principal law.

24. In section 52 of the principal law for the words from "in the Form No. 8 annexed hereto, or to the same effect," up to the end of that section, there shall be substituted the words "in such form or forms as the Minister responsible for customs may by regulations prescribe and containing the several particulars required in such form or forms"; and in the marginal note thereof the words "Ship's content. Form No. 8" shall be deleted.

Amendment of section 55 of the principal law.

25. In section 55 of the principal law for the words "twenty-five pounds" there shall be substituted the words "two hundred and fifty Maltese liri".

- 26.** For section 57 of the principal law there shall be substituted the following:
- 57.** If any vessel departs from these Islands without being duly cleared, or if in any form of clearance outwards required under section 52 information is given which is incorrect in any material particular, the master, or the agent of the owner by whom the vessel ought to have been cleared, shall be liable to a fine (*multa*) of not less than one hundred Maltese liri but not exceeding one thousand Maltese liri.”
- 27.** Section 59 of the principal law shall be amended as follows:
- (a) in subsection (1) thereof, for the words “of five pounds” there shall be substituted the words “of not less than one hundred Maltese liri but not exceeding one thousand Maltese liri”; and
- (b) in subsection (3) thereof for the words “twenty-five pounds” there shall be substituted the words “two hundred and fifty Maltese liri”.
- 28.** In subsection (2) of section 65 of the principal law for the words “not exceeding five hundred pounds” wherever they occur there shall be substituted respectively the words “of five hundred Maltese liri”.
- 29.** Immediately after section 66 of the principal law there shall be added the following new section:
- 66A.** (1) The Comptroller may, upon reasonable suspicion, direct that any packages lying under customs control be opened and their contents examined for the purpose of ascertaining that the provisions of this Ordinance and of any other law relating to customs are being complied with.
- (2) A reasonable notice of the opening and examination of the goods shall be given to the consignee, if known, so that he or his agent may attend.
- (3) If the circumstances do not permit that such notice be given it shall be dispensed with.
- (4) The Comptroller shall not, on account of any such opening or examination, be liable to any action whatsoever.”
- 30.** In subsection (1) of section 69 of the principal law for the words “his last known place of abode or business” there shall be substituted the words “his last known place of abode or business in Malta”.
- 31.** For section 72 of the principal law there shall be substituted the following:
- 72.** (1) Any proceedings for any offence against this Ordinance and any proceedings for the recovery of any pecuniary penalty or otherwise under this Ordinance shall be instituted by or in the name of the Comptroller.

Substitution of section 57 of the principal law.

Amendment of section 59 of the principal law.

Amendment of section 65 of the principal law.

Addition of new section 66A to the principal law.

Amendment of section 69 of the principal law.

Substitution of section 72 of the principal law.

(2) Such proceedings shall be instituted —

(a) where the goods in respect of which the offender is proceeded against are any of the goods set out in the Schedule hereto, within 10 years from the date on which the goods were imported;

(b) where the proceedings are instituted under paragraph (f) or (g) of section 61 and paragraph (k) with reference to paragraphs (f) or (g) of the said section, in cases other than those to which paragraph (a) hereof applies, within 5 years from the date of the importation of the goods to which the offence refers; and

(c) in any other case within 2 years from the day of the commission of the offence.”.

Addition of
new section
75B to the
principal law.

32. Immediately after section 75A of the principal law there shall be added the following new section 75B:

“Minister
may
prescribe
forms.

75B. (1) The Minister responsible for customs may make regulations to prescribe the forms to be used in accordance with and for the purposes of any provisions of this Ordinance and of any regulations made thereunder and, from time to time, to amend, substitute, revoke and add to any such forms.

(2) The revocation or alteration of any forms as provided in subsection (1) of this section shall not affect any penalty, forfeiture or punishment incurred before such revocation or alteration.”.

Passed by the House of Representatives at Sitting No. 291 of the 6th November, 1985.

DANIEL MICALLEF
Speaker

C. MIFSUD
Clerk to the House of Representatives