

First Session Fifth Parliament Republic of Trinidad  
and Tobago

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REPUBLIC OF TRINIDAD AND TOBAGO

**Act No. 34 of 1996**

[L.S.]

AN ACT to amend the Customs Act, Chap. 78:01

*[Assented to 2nd November, 1996]*

ENACTED by the Parliament of Trinidad and Tobago as Enactment  
follows:—

1. This Act may be cited as the Customs Short title  
(Amendment) Act, 1996.

2. In this Act, "the Act" means the Customs Act.

Interpretation  
Chap. 78:01

Section 2 of the Act amended

3. Section 2 of the Act is amended by inserting after the definition of "customs laws" the following definition:

" "document" means—

- (a) any written information relating directly or indirectly to goods which are imported or exported;
- (b) any written declaration required by the Comptroller; or
- (c) any recording generated in any manner whatsoever, including an automated recording device and computer programmes required to retrieve information in usable form;".

Section 4A inserted

4. The Act is amended by inserting after section 4 the following section:

"Documents  
executed by  
Comptroller

4A. The Comptroller may, in the exercise of his functions, execute any document or agreement required under the customs laws to be entered into between the Comptroller and any other person."

Section 20 of the Act amended

5. Section 20 of the Act is amended by inserting after subsection (2) the following subsection:

" (3) Where the value has been adjusted upon a discovery under section 23(2A), the Comptroller may demand the additional duty payable or may refund the duty overpaid based upon the new value."

Section 22 of the Act amended

6. Section 22 of the Act is amended by inserting after subsection (3) the following subsection:

" (4) Notwithstanding any provision in the Tax Appeal Board Act, no appeal may be instituted before the Tax Appeal Board in respect of a dispute referred to in subsection (1) after—

- (a) the expiry of six months from the date of the deposit made under this section; or

Chap. 4:50

- (b) the expiry of six months from the date of the final assessment under section 87A(5).”.

7. Section 23 of the Act is amended by inserting after subsection (1) the following subsections: Section 23 of the Act amended

“ (2) Nothing in the Sixth Schedule shall be construed as restricting or calling into question the rights of the Comptroller to satisfy himself as to the truth or accuracy of any statement or document presented for customs valuation purposes.

(2A) The Comptroller may, within one year from the date of entry of imported goods, adjust the value accepted by an Officer at the date of entry of such goods, where he discovers that the value accepted by the Officer was incorrect—

- (a) based on new information concerning the goods; or  
(b) for any other reason.”.

8. Section 37 of the Act is repealed and the following section is substituted: Section 37 repealed and a section substituted

“Disposal of goods which receive duty reduction or exemption

37. (1) Goods which are liable to duty at a given rate under the customs laws may be entered at a lower rate of duty or free of duty where any law grants such reduction or exemption of duty.

(2) Where goods entered pursuant to subsection (1) are—

- (a) subject to any special conditions;  
(b) to be used for some special purpose; or

(c) the property of or intended for use by a particular person or functionary,

those goods shall not, without the prior written permission of the Minister and within two years of the date of importation of the goods or within such other period as may be specified in any other law, be sold, transferred or used in any way contrary to the conditions or purposes for which they were allowed to be so entered, unless the full duties payable on the goods are paid.

(3) The importer or any other person who is knowingly concerned in the sale, transfer or use of the goods contrary to subsection (2) shall, where no penalty is provided for under any other law, incur on conviction a penalty of twenty-five thousand dollars or treble the value of the goods at the election of the Comptroller, and, in addition to such penalty, the goods shall be forfeited.”

Section 38 of the Act amended.

9. Section 38 of the Act is repealed and substituted by the following section:

“Penalty for not producing goods

38. (1) The importer of any goods under section 37 shall, on demand, produce the goods to an Officer or otherwise account for them to the satisfaction of the Comptroller within the period referred to in section 37(2).

(2) The importer who fails or refuses to produce or otherwise account for the goods as required by this section commits an offence and, upon conviction, shall incur a penalty of twenty-five thousand dollars or treble the value of the goods at the election of the Comptroller.”

**10. Section 65 of the Act is amended—**Section 65 of the Act  
amended

(a) in subsection (1), by deleting the definition of “green line notice” and substituting the following definition:

“ “green line notice” means a notice printed in large legible characters displayed at a port by order of the Comptroller, notifying persons disembarking at that port who—

(a) have no uncustomed or prohibited goods; or

(b) have no dutiable goods in excess of the allowance approved under item 6(a) of the Second Schedule,

that they may proceed along the greenline and leave the Customs area unless requested to stop for the purpose of being searched by an Officer on duty at the green line or any other part of the Customs area at that port.”;

(b) by deleting subsection (2) and substituting the following subsection:

“ (2) A person disembarking at a port who—

(a) takes up a position in a green line for the purpose of leaving the Customs area; and

(b) carries with him, whether or not contained in his baggage—

(i) uncustomed or prohibited goods; or

(ii) dutiable goods in excess of the allowance approved under item 6(a) of the Second Schedule,

commits an offence.”;

(c) in subsection (3), by deleting the words “five hundred dollars” and substituting the words “fifty thousand dollars”.

Section 87 repealed  
and a section  
substituted

**11. Section 87 of the Act is repealed and the following sections are substituted:**

“Entry in  
absence of  
documents

87. (1) Subject to subsection (3), where an importer seeking an entry of goods is unable to furnish full particulars of those goods for want of any documents or information concerning those goods, he shall make a declaration to that effect on the prescribed form.

(2) Where the Comptroller is satisfied that an importer is unable to obtain the required documents or information concerning goods to be entered, the Comptroller may permit the entry and delivery of such goods where—

(a) the description of those goods is correct for tariff and statistical purposes; and either

- (b) in the case of goods liable to *ad valorem* duty, that the value of the goods declared on the entry is approximately correct; or
- (c) in the case of goods liable to duty according to their weight or measurement, that such weight or measurement as declared on the entry thereof is correct.

(3) This section does not apply to an importer seeking to claim Common Market rates of duty who is unable to provide satisfactory documentary evidence as required under the Customs (Caribbean Common Market) (Origin of Goods) Regulations.

L.N. No. 62  
of 1981

Unsatisfactory  
evidence of  
value of goods

87A. (1) Where the Comptroller considers that he is unable to make a proper assessment of the value of goods to be entered on account of the failure of the importer to produce satisfactory documentary evidence of the value of the goods, he may direct that—

- (a) the goods be examined and a provisional assessment be made by the proper Officer of the duty payable on the goods; and
- (b) the goods be provisionally entered based on the payment of the amount of duty calculated by the importer, such amount being brought to account as revenue.

(2) Pending entry of the goods an importer shall, in addition to the amount of the provisional assessment referred to in subsection (1)(b) pay as a deposit to the Comptroller, an amount equal to the

difference between the duty provisionally assessed by the proper Officer referred to in subsection (1)(a) and the duty calculated by the importer referred to in subsection (1)(b).

(3) The importer may, with the approval of the Comptroller, secure the deposit payable under subsection (2) by means of a bond.

(4) Where goods are provisionally entered pursuant to subsection (1), the Comptroller shall in writing require the importer of such goods to produce, within three months of the provisional entry, such documents or other information relating to the value of the goods as the Comptroller may specify.

(5) Where—

- (a) the documents or other information required under subsection (4) have not been produced within the time specified in that subsection; or
- (b) the importer informs the Comptroller in writing before the expiry of the time specified in subsection (4) that he is unable to produce any further documents or information,

the amount of duty which was provisionally assessed under subsection (1) shall be treated as the final assessment and the deposit paid shall, unless the importer commences proceedings under section 22 within six months of the date of the final assessment, be brought to account as revenue within that latter period.

(6) Notwithstanding section 22(1), where an importer fails to produce the required documents or other information pursuant to subsection (4)—

- (a) the Comptroller shall notify the importer of that final assessment within two weeks of the date of such assessment;
- (b) no dispute shall be considered to have arisen until such time as the final assessment is made under subsection (4).

(7) Where—

- (a) the additional documents or other information required under subsection (4), have been provided to the satisfaction of the Comptroller; and
- (b) the duty as assessed by the Comptroller is more than or less than the provisional assessment made under subsection (1),

the excess duty shall either be refunded to or paid by the importer.

False  
documents

87B. (1) Where—

- (a) pursuant to section 87A(4), an importer submits documents or other information to the Comptroller relating to the goods imported by him; and

- (b) the Comptroller knows or has reason to believe that such documents or other information are false in any material particular affecting the valuation of the goods,

the Comptroller shall inform the importer that he is not satisfied with the documents or other information produced and may request the importer to submit further documents or information within such period as the Comptroller may direct.

(2) Where the goods to be entered are not prohibited or restricted, the Comptroller may allow provisional entry of such goods on the payment of a deposit equal to the duty assessed by the Comptroller together with an additional amount, not being more than one-half of the duty assessed.

(3) The additional amount paid pursuant to subsection (2) shall be refunded to the importer unless the Comptroller commences proceedings in court within one month of the date of provisional entry of the goods.

(4) The duty based on the calculation by the importer shall be accepted by the Comptroller unless the Comptroller commences proceedings in court within three months of the date of provisional entry of the goods.

(5) The deposit together with the additional amount paid pursuant to subsection (2) shall, in addition to any penalty which the court may impose, be forfeited where the court finds that the importer has committed an offence under section 213(e).

(6) Where the Comptroller has commenced proceedings in court, no dispute shall be considered to have arisen for the purposes of section 22 (1) until the court proceedings have been concluded.

(7) After the goods are provisionally entered and before delivery from the port of importation, the Comptroller may, where he considers it necessary, cause the goods to be photographed in a manner so as to show—

- (a) the method of packaging;
- (b) the contents of a representative sample of all the packages;
- (c) any identifying marks so as to indicate the nature and type of goods imported.”.

12. Sections 88 and 89 of the Act are repealed.

Sections 88 and 89 of the Act repealed

13. Section 90 of the Act is repealed and the following section substituted:

Section 90 of the Act repealed and a section substituted

“Samples to be retained

90. (1) The Comptroller may retain samples of goods entered provisionally under sections 87, 87A and 87B for such period of time up to the final entry of the goods as he may require.

## (2) The Comptroller shall—

- (a) cause an inventory of those samples to be made; and
- (b) cause a certified copy of the inventory made under this section to be forwarded to the importer.”.

Sections 91,  
92 and 93  
repealed

14. Sections 91, 92 and 93 of the Act are repealed.

Section 205 of the  
Act amended

15. Section 205 of the Act is amended in subsection (3), by inserting after the words “any other place” the words “including any place where documents relating to uncustomed or prohibited goods are reasonably expected to be found”.

Section 206 of the  
Act amended

16. Section 206 of the Act is amended by inserting after the words “other place in Trinidad and Tobago” the words “including any place where documents relating to uncustomed or prohibited goods are reasonably expected to be found”.

Section 212 of the  
Act amended

17. Section 212 is amended—

(a) by deleting paragraph (d) and substituting the following paragraph:

“(d) counterfeits, falsifies, or wilfully uses, when counterfeited or falsified, any document required by the customs laws or by the Comptroller, or required to be submitted to the Comptroller under any other law or used in the transaction of any business or matter relating to the customs;”;

(b) in paragraph (e), by deleting the words “or instrument” wherever occurring;

(c) by deleting paragraph (f) and substituting the following paragraph:

“(f) on any document required for the purposes of the customs laws or required to be submitted to the Comptroller under any other law, counterfeits or imitates the seal, signature, initials or other marks of, or made use of by another person, whether or not with the consent of that other person.”.

18. Section 228 of the Act is repealed and replaced by the following section: Section 228 repealed and a section substituted

“Production of documents

228. (1) An importer or exporter of goods or a person having an interest in the importation or exportation of such goods shall, on the written request made by an Officer, within three years—

- (a) of the date of importation or exportation of the goods; or
- (b) of the date of delivery of an entry relating to the goods to the proper Officer,

produce for the inspection of the Officer such documents relating to the goods as may be required within three months or such longer period as the Officer may require not exceeding six months from the date of the written request.

(2) It shall be a defence under this section for a financial institution or insurance company to show that, owing to the particular nature of its business, it is not required to have such documents in its possession or under its control in the normal course of its business.

(3) An importer, exporter or the agent of such importer or exporter shall—

- (a) answer every question put to him by the proper Officer relating to the importation or exportation of goods by the importer or exporter, including accompanied baggage; and
- (b) subscribe to such declarations as the proper Officer may require regarding the weight, measure, strength, purchase price and any other information relating to such goods.

(4) Where an importer, an exporter, or a person having an interest in the importation or exportation of goods, neglects or refuses to provide the information or documents required under subsection (1) or to subscribe to a declaration as required under subsection (3), the Comptroller may—

- (a) refuse entry or delivery of such goods;
- (b) prevent the shipment of such goods;
- (c) allow entry, delivery or shipment of the goods on such terms and conditions and upon the payment of such deposit as the Comptroller may determine.

(5) In this section, 'a person having an interest in the importation or exportation of goods' includes—

- (a) a financial institution which has advanced funds for the payment of goods;

(b) an insurance company which has issued a policy of insurance covering such goods.”.

19. The Sixth Schedule to the Act is amended—

Sixth Schedule to the  
Act amended

(a) in subclause (1) by inserting in the appropriate places the following definitions:

“ “buying agent” means a person who acts for the account of a buyer of goods, rendering services in connection with finding supplies, informing the seller of the wishes of the importer, collecting samples, inspecting goods and in some cases, arranging the insurance, transport, storage and delivery of the goods for a buying commission;

“seller” means a person who has the legal or beneficial interest in the goods at the time that the contract of sale is concluded and to whom the proceeds of sale will ultimately be paid, exclusive of any commission;”;

(b) in paragraph 3(2)(a), by inserting after the words “opportunity to respond.” the words “But where the value of identical or similar goods, which was utilized in determining the value in paragraph 3(2)(b) was subsequently adjusted, based upon discovery under section 23(2A), the value of the goods imported in a sale between related persons may also be adjusted in accordance with the adjusted value of the identical or similar goods;”;

(c) by deleting paragraph 3(8);

(d) in paragraph 8(1)(g), by deleting the words “port or place of importation” occurring before the words “, and the cost of insurance” and substituting the words “port or place of exportation”.

Regulations amended **20.** The Customs Regulations are amended in relation to forms C75 and C76 in Schedule 1, by deleting the respective headings of those forms entitled “DECLARATION REGARDING GOODS OF A VALUE EXCEEDING \$1,000 LIABLE TO *AD VALOREM* DUTY” and substituting respectively the headings entitled “DECLARATION REGARDING GOODS OF A VALUE EXCEEDING \$1,000”.

Passed in the Senate this 18th day of July, 1996.

N. COX  
*Clerk of the Senate*

Passed in the House of Representatives this 20th day of September, 1996.

J. SAMPSON  
*Clerk of the House*

House of Representatives amendments agreed to by the Senate this 14th day of October, 1996.

N. COX  
*Clerk of the Senate*