



BERMUDA

CUSTOMS DUTY (SPECIAL REMISSION) ACT 1951

1951 : 27

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[preamble and words of enactment omitted]

Interpretation

1 In this Act—

“customs duty” means any import duty or export duty payable by law in respect of the importation of goods into or the exportation of goods out of Bermuda;

“exempted person” means a person who in relation to an undertaking carried on by him in Bermuda has been granted any exemption from customs duty by a remission order;

“goods” includes articles, things, materials and substances of whatsoever nature or description;

“Minister” means the Minister of Finance;

“remission order” means an order made by the Minister under section 2.

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Remission orders

2 (1) Where, in connection with the application in writing of any person, it is made to appear to the Minister—

- (a) that that person is carrying on or is proposing to carry on in Bermuda some manufacturing undertaking or some other undertaking, being such an undertaking as is not commonly carried on by persons in Bermuda; and
- (b) that it is likely that the carrying on in Bermuda of the undertaking by that person will be of advantage to the general economy of Bermuda,

the Minister may, subject to this Act, make an Order (in this Act referred to as “a remission order”) granting to that person such exemption from the payment of customs duty as may be specified in the Order in respect of such goods as may be so specified, being goods intended to be used, or imported, or used, in connection with the undertaking or (in the case of a manufacturing undertaking) goods manufactured in Bermuda by that person in carrying on the undertaking.

(2) A remission order in respect of any goods may be made so as to grant complete exemption from the payment of the customs duty that would otherwise be payable in respect of the goods or so as to provide for the payment of less customs duty than would otherwise be payable in respect of the goods.

(2A) A remission order may have effect from a date, specified in the Order, that is not earlier than 12 months before the date on which the Order is made by the Minister.

(3) A remission order may be limited in validity to a period of time specified in the order.

(4) A remission order shall have effect notwithstanding anything in the Customs Tariff Act 1970 [*title 14 item 12*], or in the Revenue Act 1898 [*title 14 item 10*].

(5) The negative resolution procedure shall apply to a remission order.

[Section 2 amended by 2009:14 s.2 effective 25 March 2009]

3 *[repealed by 1977:35]*

4 *[repealed by 1977:35]*

Collector of Customs may require exempted person to give information

5 An exempted person—

- (a) shall furnish to the Collector of Customs such certificates, statements, returns or other documents relating to the undertaking as the Collector of Customs may from time to time require;
- (b) shall, whenever so required by the Collector of Customs, produce for the inspection of the Collector of Customs, or of any person authorized by the Collector of Customs in that behalf, any books or records kept by him and relating to the undertaking.

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Delivery of exempted goods

6 (1) In this section “exempted goods” means goods in respect of which any exemption from import duty has been granted by a remission order.

(2) With respect to the importation of exempted goods—

- (a) the exempted goods shall be delivered under the supervision of the Customs Department directly to the exempted person, at premises occupied by him, out of the ship or aircraft in which they were brought to Bermuda or out of the wharf, customs warehouse, bonded warehouse or other place where the goods were being kept prior to customs entry; and
- (b) without prejudice to any power conferred on the Collector of Customs by section 5, the exempted person shall furnish to the Collector of Customs such certificates, receipts or other documents relating to the importation, carriage and delivery of the exempted goods as the Collector of Customs may from time to time require.

Disposal of locally manufactured goods or exempted goods

7 *[Repealed by 2017 : 17 s. 5.]*

[Section 7 repealed by 2017 : 17 s. 5 effective 1 April 2017]

Offences

8 (1) If an exempted person fails without reasonable excuse (the proof of which shall be upon him) to comply with any requirement or direction imposed on or given to him by the Collector of Customs under any of the foregoing provisions of this Act, he commits an offence against this Act:

Punishment on summary conviction: a fine of the level 3 amount.

(2) If in any certificate, return, statement or other document or in any information required under any of the foregoing provisions of this Act to be furnished to the Collector of Customs, or in any book or record required under any of the said provisions to be produced to the Collector of Customs, any person (being an individual) makes or authorizes or allows or connives at any statement or entry which he knows to be false or misleading in a material particular, he commits an offence against this Act:

Punishment on summary conviction: imprisonment for 3 months or a fine of the level 5 amount or both such imprisonment and fine.

(2A) If such person is a director, officer or servant of a company, the company also commits an offence:

Punishment on summary conviction: a fine of the level 5 amount.

(3) If any person acquires, whether by purchase or otherwise, or attempts so to acquire, any locally manufactured goods or exempted goods in contravention of any of the foregoing provisions of this Act, he commits an offence against this Act:

Punishment on summary conviction: a fine of the level 4 amount or an amount not exceeding three times the amount payable by way of duty whichever is the greater amount:

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Provided that it shall be a good defence for a person charged with an offence under this subsection to prove that he did not know and had no reason to believe that the goods which were the subject of the charge were locally manufactured goods or exempted goods.

- (4) If any person who is not—
- (a) an exempted person;
 - (b) an officer of the Customs Department acting in the course of his duties as such;
 - (c) a person acting within the scope of his employment in connection with the due importation or exportation, transportation or delivery of locally manufactured goods or exempted goods,

is in possession of any locally manufactured goods or exempted goods, the possession shall be prima facie evidence that that person has acquired the manufactured goods or exempted goods.

(5) In addition to any punishment imposed or order made by a court of summary jurisdiction upon the conviction of a person of an offence under subsection (3) the court may order the goods in respect of which the offence was committed to be forfeited to Her Majesty.

(6) In this section—

“exempted goods” has the meaning assigned to it in section 6; and

“locally manufactured goods” means any goods or articles manufactured in Bermuda wholly or partly from exempted goods by an exempted person in carrying on a manufacturing undertaking in Bermuda.

[Section 8 subsections (1)-(3) penalty on standard scale substituted for amount in § by 2004:6 s.18 & Sch 2 effective 26 March 2004; subsection (6) repealed and replaced by 2017 : 17 s. 5 effective 1 April 2017]

Recovery of duty

9 Without prejudice to anything in the foregoing provisions of this Act, any duty falling to be paid by any person under any of the foregoing provisions of this Act may, without limit of amount, be recovered by the Collector of Customs before a court of summary jurisdiction in the manner provided by the Magistrates Act 1948 [*title 8 item 15*] for the recovery of a debt or liquidated demand.

[Assent Date: 20 April 1951]

[Amended by:

1955 : 89

1958 : 46

1959 : 150

1971 : 83

1977 : 35

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2002 : 6
2004 : 6
2009 : 14
2017 : 17]