



BERMUDA

CUSTOMS DEPARTMENT ACT 1952

[formerly entitled the Colonial Treasury (Customs Division) Act 1952]

1952 : 48

TABLE OF CONTENTS

1	Interpretation
2	Customs Department established
3	Charge payable for customs supervision of ship arriving in Bermuda; relaxation of supervision; exempted ships
3A	Charge for clearance of private aircraft
4	Charges for services outside customs area
4A	Charges for courier packages
4B	Charges for customs stamps, seals etc.
4C	Charges for manual input of Bermuda Customs Declaration data
5	Powers and immunities of members of Customs Department
6	Governor may appoint customs officers as Immigration Officers
6A	The Quarantine Authority may appoint customs officers as Health Officers
7	Restricted information
8	Permitted disclosure and limitations
9	Arrangements for national and international cooperation
10	Restrictions on further disclosure
11	Information received, etc.
12	Fees
13	Personal Information and Protection Act 2016
14	Application of Public Access to Information Act 2010
15	Minister may make regulations
16	Savings of agreements for national and international cooperation

[preamble and words of enactment omitted]

CUSTOMS DEPARTMENT ACT 1952

Interpretation

- 1 In this Act, unless the context otherwise requires—
- “Bermuda Airport” has the meaning assigned to it in section 1 of the Civil Airports Act 1949;
- “customs declaration” means any declaration prescribed by the Collector of Customs under section 16 of the Revenue Act 1898;
- “customs information” means information of any kind or in any form that relates to a person or entity and that has been obtained by or has come into the possession of the Department in connection with its functions;
- “the Department” means the Customs Department established under section 2;
- “the Minister” means the Minister of Finance;
- “overseas law enforcement agency” refers to—
- (a) the government law enforcement agency of a state or territory outside Bermuda and includes an official or person employed by or representing a government law enforcement agency;
 - (b) an international organization established by the government of states for the purposes international law enforcement.
- “prescribed” means prescribed by regulation under the Government Fees Act 1965 [title 15 item 18].
- “Quarantine Authority” has the meaning assigned to it in section 2 of the Quarantine Act 2017.

[Section 1 “Bermuda airport” inserted on consolidation. Incorrectly put in 1999:13 (which inserted s.3A below) instead of in this section; “Quarantine Authority” inserted by 2017 : 11 s. 17 effective 24 April 2017; Section 1 definitions “customs declaration”, “customs information” and “overseas law enforcement agency” inserted by 2024 : 42 s. 2 effective 28 December 2024]

Customs Department established

- 2 (1) There shall be established a Department of Government which shall be known as the Customs Department, the persons appointed to which shall have the powers and duties imposed upon members of the Department, Customs Officers or members of the Customs Division by this Act and any other enactment.
- (2) The Department shall, subject to the general or special directions and control of the Minister, be under the supervision of a public officer who shall be known as the Collector of Customs and shall consist of such number of Assistant Collectors of Customs and other public officers as may from time to time be authorized by the Governor.
- (3) Notwithstanding the foregoing, where any member of the Department is appointed to be an Immigration Officer pursuant to section 6 or a Health Officer pursuant to section 6A he shall, to the extent authorized by the Collector of Customs, comply with the directions and instructions of the Minister responsible for immigration and the Chief Immigration Officer or, as the case may be, the Quarantine Authority and

CUSTOMS DEPARTMENT ACT 1952

the Chief Medical Officer in relation to matters falling within the control of those authorities and officers and shall comply with any provision of law for the time being in force relating to the functions to be performed by him in the capacity of an Immigration Officer or Health Officer.

(4) Notwithstanding the foregoing, where any member of the Department is acting in relation to any prohibition or restriction on the importation or exportation of goods, he shall, to the extent authorised by the Collector of Customs, comply with the directions and instructions of the Minister responsible for national security.

[Section 2 amended by 1998:20 effective 18 June 1998; subsection (3) amended and subsection (4) inserted by 2014 : 5 s. 2 effective 1 April 2014; subsection (3) amended by 2017 : 11 s. 17 effective 24 April 2017]

Charge payable for customs supervision of ship arriving in Bermuda; relaxation of supervision; exempted ships

3 (1) Where any ship, not being an exempted ship within the meaning of subsection (4), arrives in Bermuda from any port or place outside Bermuda the prescribed fee in respect of customs supervision of that ship shall be paid by or on behalf of the owner of the ship or, in the absence of the owner, then by or on behalf of the agent of the ship:

Provided that where the Collector of Customs is satisfied that, as respects any particular ship, customs supervision may be relaxed without endangering the safeguarding of the revenue, the Collector of Customs, if no substantial supervision is in fact exercised, may direct that such prescribed fee shall not be payable in respect of that ship.

(1A) In any case where a ship such as aforesaid arrives in Bermuda, from any port or place outside Bermuda, holding one or more ship containers, an additional prescribed fee shall be paid in respect of each such container by or on behalf of the owner of the ship or, in the absence of the owner, then by or on behalf of the agent of the ship.

[Subsection (1A) inserted by 1990:10 effective 1 April 1990]

(1B) In this Act, the expression “ship container” means a container of a permanent character specially designed to facilitate the carriage of goods by ship, and having an internal volume of not less than one cubic metre.

[Subsection (1B) inserted by 1990:10 effective 1 April 1990]

(2) Any charges falling to be paid under (1) may, without limit of amount, be recovered 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:

Provided that execution may issue immediately, and if the court so directs may, to the limit of the amount recovered as aforesaid, together with cost of execution, be levied on the goods or monies of the owner, agent or master of the ship, or, as the case may be, on the goods or monies of the consignor or consignee of any cargo, in connection with which the amount was recovered, wheresoever such goods or monies may be.

CUSTOMS DEPARTMENT ACT 1952

(3) Clearance shall not, unless the Collector of Customs otherwise directs, be granted in respect of any ship where any charges falling to be paid under subsection (1) in respect of that ship remain unpaid.

(4) For the purposes of the foregoing provisions of this section a ship shall be deemed to be an exempted ship if the ship—

- (a) is one of Her Majesty's Ships of War, or any other ship owned and operated by the Government of any part of Her Majesty's dominions; or
- (b) is a ship owned and operated as a public vessel by the Government of any state; or
- (c) is a ship for the time being used solely for scientific research or nautical exploration; or
- (d) is a yacht or other vessel used exclusively for pleasure purposes, including a superyacht which is chartered in accordance with the Passenger Ships and Other Vessels Act 1972; or
- (e) is a ship which arrives in Bermuda—
 - (i) solely by reason of being in distress; or
 - (ii) solely by reason of stress of weather; or
 - (iii) solely for the purpose of landing any person for medical reasons; or
 - (iv) solely for the purpose of landing any person who, being a passenger or forming part of the crew of any ship or aircraft, is rescued at sea; or
 - (v) solely for the purpose of obtaining fuel, water or ship stores; or
 - (vi) solely by reason of assisting in the salvage of any other ship.

[Section 3 subsection (4)(d) amended by 2019 : 27 s. 7 effective 1 January 2020]

Charge for clearance of private aircraft

3A (1) Subject to subsection (3), the owner of a private aircraft which arrives at the Bermuda Airport from any place outside Bermuda shall pay the prescribed fee in respect of clearance of that aircraft.

(2) Clearance shall not, unless the Collector of Customs otherwise directs, be granted in respect of any aircraft where any fee falling to be paid under subsection (1) in respect of that aircraft remains unpaid.

(3) The prescribed fee is not payable under subsection (1) where the aircraft--

- (a) is one of Her Majesty's aircraft or an aircraft owned and operated by the Government of any part of Her Majesty's dominions;
- (b) is an aircraft owned and operated by the War, Navy or Air Force Department of the Government of any state;

CUSTOMS DEPARTMENT ACT 1952

- (c) is an aircraft which arrives in Bermuda--
 - (i) solely by reason of being in distress;
 - (ii) solely by reason of stress of weather; or
 - (iii) solely for the purpose of landing any person for medical reasons.

(4) In this section, “owner” includes the pilot, agent or such other person who is responsible for clearance of an aircraft.

[Section 3A inserted by 1999:13 s.3 effective 29 March 1999]

Charges for services outside customs area

4 (1) Without prejudice to anything in the foregoing provisions of this Act, where, in the opinion of the Collector of Customs, it is necessary, having regard to all the circumstances including the exigencies of the customs service, for a member of the Department to exercise customs supervision—

- (a) outside a customs area within the meaning of the Revenue Act 1898 [*title 14 item 10*]; or
- (b) at any place between the hours of 5 p.m. and 8 a.m. during any day not being a Sunday or public holiday; or
- (c) at any place and at any time on a Sunday or public holiday,

then, in any such case the person requesting such supervision shall pay to the Collector of Customs the prescribed fee:

Provided that nothing in this subsection shall have effect in relation to the attendance of a member of the Department at a bonding warehouse within the meaning of the Revenue Act 1898 [*title 14 item 10*] between the hours of 8 a.m. and 5 p.m. inclusive for the purpose of supervising the placing in bond, or the taking out of bond, any packaged goods, being goods which require no packing or sorting before they are placed in bond or before being taken out of bond as the case may be, where such attendance—

- (a) is required by the Collector of Customs in accordance with the powers vested in him by the Revenue Act 1898 [*title 14 item 10*]; and
- (b) the person requesting supervision is unable to obtain from the Collector of Customs or other proper officer lawful authority for dispensing with such requirement:

Provided further that nothing in this subsection shall have effect so as to require any fee to be paid pursuant to this subsection in respect of the customs supervision of any ship container whether within or outside a customs area.

[Proviso to subsection (1) inserted by 1990:10 effective 1 April 1990]

CUSTOMS DEPARTMENT ACT 1952

(2) Any sum of money falling to be paid under subsection (1) may be recovered 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.

Charges for courier packages

4A (1) Without prejudice to anything in the foregoing provisions of this Act, the prescribed fee shall be paid to the Collector of Customs in respect of customs supervision (whether within or outside a customs area within the meaning of the Revenue Act 1898 [title 14 item 10]) of any courier package imported into Bermuda.

(2) In subsection (1), “courier package” means a package imported into Bermuda by or on behalf of a business providing a service of expeditious delivery of such packages for that business’s customers.

[Section 4A subsection (2) amended by 2010 : 14 s. 2 effective 25 March 2010]

Charges for customs stamps, seals etc.

4B The fee prescribed under the Government Fees Regulations 1976 shall be paid to the Collector of Customs in respect of the use or application of customs stamps, seals, certificates and other forms of certification or identification provided by the Department.

[Section 4B inserted by 2010 : 14 s. 3 effective 25 March 2010]

Charges for manual input of Bermuda Customs Declaration data

4C (1) The fee prescribed under the Government Fees Regulations 1976 shall be paid to the Collector of Customs in respect of the use or application of the manual input of Bermuda Customs Declaration data into customs automated processing system (CAPS) by the employees of the Customs Department.

(2) In this section, a “Bermuda Customs Declaration” means a customs declaration prescribed by the Collector of Customs by notice published in the Gazette under section 16 of the Revenue Act 1898 for the purpose of the importation of goods into Bermuda or for the import or export of currency and negotiable instruments, with the exception of the import or export of accompanied personal goods as provided for in heading 98.01 of the First Schedule to the Customs Tariff Act 1970.

[Section 4C inserted by 2016 : 15 s. 14 effective 1 October 2016; Section 4C subsection (2) repealed and replaced by 2024 : 42 s. 3 effective 28 December 2024]

Powers and immunities of members of Customs Department

5 (1) Every member of the Department may make, while acting in the execution of his duty, such searches of ships, aircraft and goods as are reasonably required for the due performance of his duties as such a member by or under any provision of law, and for that purpose may enter (using reasonable force if necessary) any warehouse or other place of deposit inside a customs area within the meaning of the Revenue Act 1898 [title 14 item 10] and any wharf, dock or landing place wherever situated.

(2) Every member of the Department shall, while acting in the execution of his duty, be entitled to the like protection and immunity as is conferred by or under any

CUSTOMS DEPARTMENT ACT 1952

provision of law upon a police officer acting in the execution of his duty in substantially similar circumstances.

Governor may appoint customs officers as Immigration Officers

6 (1) The Governor may appoint any member of the Department to be an Immigration Officer for the purpose of exercising any powers or performing any duties which may be exercised or performed by an Immigration Officer under the provisions of the Bermuda Immigration and Protection Act 1956.

(2) No member of the Department who is, under subsection (1), appointed to be an Immigration Officer shall be entitled to any other or additional salary or other emoluments by virtue of such appointment.

(3) The powers and immunities conferred upon members of the Department by section 5(1) and (2) shall extend to any such members who are appointed under this section to be Immigration Officers while acting in the execution of their duty as Immigration Officers.

[Section 6 headnote and subsections (2) and (3) amended and subsection (1) repealed and substituted by 2017 : 11 s. 17 effective 24 April 2017]

The Quarantine Authority may appoint customs officers as Health Officers

6A (1) The Quarantine Authority may appoint any member of the Department to be a Health Officer for the purpose of exercising any powers and performing any duties which may be exercised or performed by a Health Officer under the provisions of the Quarantine Act 2017.

(2) No member of the Department who is, under subsection (1), appointed to be a Health Officer shall be entitled to any other or additional salary or other emoluments by virtue of such appointment.

(3) The powers and immunities conferred upon members of the Department by section 5(1) and (2) shall extend to any such members who are appointed under this section to be Health Officers while acting in the execution of their duty as Health Officers.

[Section 6A inserted by 2017 : 11 s. 17 effective 24 April 2017]

Restricted information

7 (1) Except as provided in section 8 or in so far as may be necessary for the due performance of the Department's functions and duties pursuant to this Act or other statutory provision, any person who is, or is acting as, a member of the Department, or is acting as a servant or an agent of the Department shall preserve and aid in preserving secrecy with regard to—

- (a) any customs information;
 - (b) all matters and information relating to the Department.
- (2) This section does not apply to information which—

CUSTOMS DEPARTMENT ACT 1952

- (a) at the time of the disclosure is or has already been made available to the public from other sources; or
- (b) is in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.

(3) Any person who communicates any such matter or information to a person who is not authorised to receive it or permits any unauthorised person to have access to customs information or any information, documents or other records relating to the Department, commits an offence and is liable on summary conviction to a fine of the level six amount as prescribed by section 84A of the Revenue Act 1898.

[Section 7 inserted by 2024 : 42 s. 4 effective 28 December 2024]

Permitted disclosure and limitations

8 (1) Customs information may be disclosed by the Collector of Customs as authorised by law, of his own volition or upon request, if the disclosure is for—

- (a) the purpose of enabling or assisting the Department to discharge its powers and duties pursuant to section 2(1), the Revenue Act 1898 or other statutory provision; or
- (b) the purposes set out in subsection (2).

(2) Customs information may be disclosed by the Collector of Customs—

- (a) to the Minister in any case in which the disclosure is for the purpose of enabling or assisting him to discharge his statutory functions under this Act or other enactment;
- (b) to the Minister responsible for national security in any case which the disclosure is for the purposes of enabling or assisting him to discharge his statutory functions under this Act or other enactment;
- (c) to enable or assist in the discharge of statutory functions under the—
 - (i) Police Act 1974, by a police officer not below the rank of inspector;
 - (ii) Defence Act 1965, by an officer not below the rank of commissioned officer;
- (d) to the Financial Intelligence Agency, established under section 3 of the Financial Intelligence Agency Act 2007, for the purpose of its functions;
- (e) for the purpose of enabling or assisting with—
 - (i) the discharge of the statutory functions of a supervisory authority (as defined by section 2(1) of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008);

CUSTOMS DEPARTMENT ACT 1952

- (ii) requirements relating to international sanctions under the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008;
- (f) for the purpose of assisting the Controller of Foreign Exchange with the administration and enforcement of the provisions of the Exchange Control Act 1972 and the regulations made under that Act in relation to the movement of persons and currency;
- (g) for the purpose of enabling or assisting with the—
 - (i) enforcement of prohibitions or restrictions on imports into or exports from Bermuda;
 - (ii) control of persons entering or leaving Bermuda;
- (h) to an overseas law enforcement agency for the purposes of assisting with the detection or investigation of crimes which would be considered criminal conduct under Bermuda laws and criminal proceedings that relate to, or involve the functions and duties of the Department as may be contained in an international arrangement for cooperation under section 9, including—
 - (i) the prevention, detection, investigation, prosecution, or punishment of offences;
 - (ii) customs offences of any kind;
 - (iii) the processing of international passengers at the border;
 - (iv) the protection of border security;
 - (v) the enforcement of a law which imposes a pecuniary penalty;
 - (vi) the protection of public health and safety; or
 - (vii) the protection of public revenue;
- (i) to customs authorities and international customs organisations, to assist with the discharge of customs functions internationally as may be contained in an international arrangement for cooperation under section 9.

[Section 8 inserted by 2024 : 42 s. 4 effective 28 December 2024]

Arrangements for national and international cooperation

9 (1) The Collector of Customs may, in connection with the exercise of the functions of the Department under section 8 in relation to customs information, enter into an arrangement for cooperation with a party in Bermuda referred to in section 8(2) for the purpose of enabling or assisting with the performance of such party's functions, or with respect to the duties of the Department.

(2) The Collector of Customs may, in connection with the exercise of the functions of the Department, after notifying the Attorney-General and ensuring the

CUSTOMS DEPARTMENT ACT 1952

necessary safeguards to protect customs information, enter into an international arrangement for cooperation with a customs authority, international customs organization or overseas law enforcement agency in a country or territory outside of Bermuda that exercises functions corresponding to those functions of the Department—

- (a) for the purposes of and in support of the Department's duties and responsibilities; or
- (b) to assist the customs authority, international customs organization or overseas law enforcement agency with the performance of its functions,

with respect to the prevention, detection or investigation of crimes as provided in section 8(2)(e), (h) or (i).

(3) The Collector of Customs may disclose customs information to a customs authority, international customs organization or overseas law enforcement agency without concluding an international arrangement for cooperation if—

- (a) the information to be disclosed is in accordance with section 15(6) of Personal Information and Protection Act 2016; and
- (b) the Collector of Customs makes and keeps a record of—
 - (i) the information that was disclosed; and
 - (ii) the overseas law enforcement agency or agencies to which it was disclosed; and
 - (iii) the conditions subject to which it was disclosed.

(4) In this section, an “international arrangement for cooperation” includes a memorandum of understanding or a joint operation memorandum that the Collector of Customs may enter into, as provided in subsection (2) and section 8(2), with a customs authority or overseas law enforcement agency from a country or territory outside of Bermuda or an international organization, in the case where the conclusion of such memorandum is provided by or authorized under an agreement or treaty entered into by the United Kingdom of Great Britain and Northern Island and that country, territory or international organization—

- (a) on behalf of Bermuda; or
- (b) that is extended to Bermuda by the United Kingdom.

[Section 9 inserted by 2024 : 42 s. 4 effective 28 December 2024]

Restrictions on further disclosure

10 (1) Customs information disclosed by the Collector of Customs pursuant to section 8 or section 9 to any party must not be further disclosed except—

- (a) for a purpose connected with any statutory function of that party for the purposes of which the customs information was disclosed by the Collector of Customs; and
- (b) with the consent of the Collector of Customs.

CUSTOMS DEPARTMENT ACT 1952

(2) Consent under subsection (1) may be given—

- (a) in relation to a particular disclosure; or
- (b) in relation to disclosures made in circumstances specified or described in the consent.

[Section 10 inserted by 2024 : 42 s. 4 effective 28 December 2024]

Information received, etc.

11 (1) All information—

- (a) received;
- (b) processed;
- (c) held; or
- (d) disclosed,

by the Department, shall be securely protected and disseminated or disclosed or used only in accordance with this Act, applicable laws and any guidance produced in accordance with this Act.

(2) The Department must keep records of customs information for six years from the date when the records were created.

(3) Any member, servant or agent of the Department who fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine of the level six amount as prescribed by section 84A of the Revenue Act 1898.

[Section 11 inserted by 2024 : 42 s. 4 effective 28 December 2024]

Fees

12 The Collector of Customs may charge an administrative fee for the sharing of customs information under this Act which shall be prescribed under the Government Fees Regulations 1976, and be paid to the Collector of Customs.

[Section 12 inserted by 2024 : 42 s. 4 effective 28 December 2024]

Personal Information and Protection Act 2016

13 (1) Nothing in this Act authorises a disclosure in contravention of the Personal Information Protection Act 2016 of personal information (as defined by that Act).

(2) The Department shall for the purposes of disclosures made under section 8 and 9 of this Act provide a privacy notice in accordance with section 9 of the Personal Information and Protection Act 2016.

[Section 13 inserted by 2024 : 42 s. 4 effective 28 December 2024]

Application of Public Access to Information Act 2010

14 (1) Notwithstanding any provision of the Public Access to Information Act 2010, this section shall have effect.

CUSTOMS DEPARTMENT ACT 1952

(2) No person who obtains customs information directly or indirectly under sections 7 to 11 for the purposes of, or pursuant to, those sections and receives a request under the Public Access to Information Act 2010 for such information, shall disclose the request or customs information so requested.

[Section 14 inserted by 2024 : 42 s. 4 effective 28 December 2024]

Minister may make regulations

15 (1) The Minister may make regulations generally for carrying out the purposes and provisions of this Act.

(2) Regulations made under subsection (1) shall be subject to the negative resolution procedure.

[Section 15 inserted by 2024 : 42 s. 4 effective 28 December 2024]

Savings of agreements for national and international cooperation

16 Every memorandum of understanding or arrangement entered into by or on behalf of the Collector of Customs and any other party with respect to national or international cooperation for the purpose of enabling or assisting with the performance of the functions of that party or with respect to the duties of the Department, immediately before the commencement of this section, shall continue to subsist between the Collector of Customs and such other party, subject to the terms of such memorandum or arrangement.

[Section 16 inserted by 2024 : 42 s. 4 effective 28 December 2024]

[Assent Date: 1 July 1952]

[Amended by:

1951 : 78
1959 : 102
1962 : 101
1963 : 152
1967 : 246
1968 : 140
1968 : 233
1969 : 667
1971 : 83
1973 : 98
1989 : 4
1990 : 10
1998 : 20
1999 : 13
2010 : 14
2014 : 5

CUSTOMS DEPARTMENT ACT 1952

2016 : 15

2017 : 11

2019 : 27

2024 : 42]