

BERMUDA

RETAIL SHOPS (TEMPORARY CUSTOMS DUTY RELIEF FOR CAPITAL INVESTMENTS) ACT 2008

2008 : 13

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SCHEDULE
GOODS OF THE BERMUDA NOMENCLATURE TO WHICH AN APPROVAL APPLIES

WHEREAS it is expedient to establish temporary arrangements for granting relief from customs duty in connection with capital investment in retail shops:

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Short title

1 This Act may be cited as the Retail Shops (Temporary Customs Duty Relief for Capital Investments) Act 2008.

Interpretation and application

2 (1) This Act shall be construed as one with the Customs Tariff Act 1970 and accordingly, any expression used in this Act that is used in that Act has the meaning in this Act that it has in that Act unless the contrary is expressed or implied.

(2) In this Act—

"application" means application for an approval;

"approval" means approval under section 4 and "approve" has a corresponding meaning;

"Collector" means the Collector of Customs;

"Customs Tariff" means the rates of duty and other provisions specified in the Schedules to the Customs Tariff Act 1970, as having effect under that Act;

"import" means import into Bermuda;

"Minister" means the Minister of Finance;

"planning permission" has the meaning assigned to that expression by section 1 of the Development and Planning Act 1974;

"relief" means the relief from customs duty described in section 6;

"retail" means to sell goods or merchandise in small parcels and not in gross, as in wholesale transactions;

"retailer" means a seller of goods or merchandise in small parcels and not in gross;

"scheme" means a capital investment project for a retail shop that began after the date that this Act comes into operation;

"statutory period", in relation to goods in respect of which relief has been granted, means the three years beginning on the day of the coming into force of this Act.

[Section 2 subsection (2) definition of "Customs Tariff"amended by 2013 : 8 s. 12 effective 1 April 2013]

Applications for approval of schemes

3 (1) A retailer may apply to the Minister for a scheme to be approved in respect of his or her retail shop.

(2) An application shall be made in writing and shall furnish such information as the Minister may require.

(3) Requirements made under subsection (2) may differ as between different applications.

Minister may grant or refuse approvals

4 (1) The Minister may grant or refuse the approval of a scheme, or may grant approval subject to such conditions as he or she may specify in the approval.

(2) The Minister shall refuse an approval if he or she determines that it is not in the public interest that an approval should be granted.

(3) The Minister need not give any reasons for granting or attaching conditions to or refusing an approval.

(4) The decision of the Minister to grant an approval, or to grant an approval subject to conditions, or to refuse an approval, is final and is not subject to any appeal.

Applicants to be informed of outcome

5 As soon as the Minister has determined an application under section 4, he or she shall notify the applicant in writing of the approval or approval subject to conditions or refusal, as the case may require.

Customs duty relief

6 (1) The customs duty on goods to which an approval applies is 0% *ad valorem* notwithstanding that a different rate of duty may be prescribed in the First Schedule to the Customs Tariff Act 1970.

(2) Goods to which an approval applies must be those goods of the Bermuda Nomenclature that are listed in the Schedule.

(3) If any question arises in any case as to the scope or meaning of any term used or provision made in the Schedule, that question shall be decided by the Minister and the decision shall be final and not subject to any appeal.

Administration of relief

7 (1) Subject to this Act, relief may be made available to an entitled person by such administrative methods and procedures as the Collector may establish.

(2) Relief shall not be made available in respect of goods—

(a) except in response to a claim in writing; and

(b) unless, subject to subsection (3)—

(i) the goods are imported on or before 31 March 2031; and

(ii) the claim is received by the Collector not later than one calendar month after that date, or such later date as the Minister may allow.

(3) *[Repealed by 2011 : 6 s. 2]*

(4) *[Repealed by 2011 : 6 s. 2]*

(5) In this section "entitled person" means a person referred to in section 8(1).

[Section 7 amended by 2011 : 6 s. 2 effective 1 April 2011; subsection (2)(b) amended by 2016 : 5 s. 2 effective 28 March 2016; Section 7 subsection (2)(b)(i) amended by 2021 : 12 s. 2 effective 1 April 2021; Section 7 subsection (2)(b)(i) amended by 2026 : 17 s. 2 effective 1 April 2026]

Duties of claimants for relief

8 (1) Either of the following persons may claim relief in respect of goods, namely,—

(a) the retailer in question himself or herself; or

(b) a person in Bermuda, who supplied the goods to the retailer.

(2) A person who will be making a claim for relief by virtue of subsection (1)(b) shall make himself known to the Collector as soon as may be so that the requirements of this section may be fulfilled in relation to him or her.

(3) The Collector may give to every retailer for whom a scheme has been approved and to every person who will be making a claim for relief by virtue of subsection (1)(b), such reasonable directions as the Collector deems necessary for the purpose of ensuring that relief is made available to persons entitled to relief and is not enjoyed by others; and a person to whom such a direction is given shall comply with the direction.

(4) A retailer for whom a scheme has been approved shall, whenever so required by the Collector during the period beginning, in the case of a retailer, on the day he or she ordered, imported or purchased the goods and, in any other case, on the day the person in question ordered or imported the goods and ending six months after the expiration of the statutory period, permit the Collector or any person authorised by him or her for that purpose, to inspect the shop premises or as the case may be, the goods to which the approved scheme applies.

Cancellation of approvals

9 (1) The Minister may cancel an approval under this section in case of fraudulent or deceitful conduct on the part of the retailer or for other good reason, in respect of any application.

(2) Before the Minister cancels an approval under this section, the Minister shall—

(a) give the retailer in question notice in writing of the reason why he or she is minded to cancel the approval; and

(b) afford the retailer an opportunity to make objection in writing within the period of 14 days after receipt of the notice; and

(c) take any such objection into account,

and, if the Minister thereafter decides to cancel the approval, he or she shall cause an order cancelling the approval to be served on the retailer.

(3) An order cancelling an approval takes effect on the date on which it is served under subsection (2).

(4) Such an order is final for all purposes and is not subject to any appeal.

Customs duty where duty-relieved goods are disposed of

10 (1) Where a person intends, within the statutory period, to dispose of goods to any other person, being goods in respect of which relief has been made available to any person under this Act, then that first-mentioned person shall—

(a) inform the Collector of his or her intention prior to the disposal, and thereafter comply with any directions that the Collector may give him or her in writing as to the furnishing of information about the disposal; and

(b) prior to the disposal pay to the Collector by way of duty an amount equal to the duty which would be payable in respect of the goods if they were then being imported, reduced by the net amount of duty that was paid in respect of the goods.

(2) Subsection (1)(b) does not apply in relation to a disposal arising by reason that the retail premises in question are sold to a purchaser or leased to a tenant, being a purchaser or tenant who is a retailer.

Offence: failing to comply with requirement, etc.

11 If a person fails without reasonable excuse (the proof of which is upon him or her) to comply with a requirement or direction made or given to him or her under this Act by the Collector, he or she commits an offence against this section.

Offence: false information, etc.

12 If a person—

(a) in relation to an application makes to the Minister any statement, or otherwise under this Act supplies to the Minister or the Collector any information which that person knows to be false or does not believe to be true; or

(b) without reasonable excuse (the proof of which is upon him or her) fails to disclose to the Minister or the Collector any information which that person knows or believes, or ought reasonably to know or believe, that he or she is expected to supply pursuant to a requirement made of him or her under this Act,

he or she commits an offence against this section.

Other offences

13 If a person fails to comply with a duty or prohibition imposed upon him or her under section 8(4) or section 10(1), he or she commits an offence against this section.

Penalties and forfeitures

14 (1) A person who commits an offence against section 11 is liable to forfeit a penalty not exceeding the level 3 amount.

(2) Subject to subsection (3), a person who commits an offence against section 12 or 13 is liable to forfeit a penalty of the level 4 amount.

(3) Where duty is lost to the Revenue as a result of an offence having been committed against section 12 or 13, the person who commits the offence is liable to forfeit a penalty of the level 4 amount or give five times the amount of the duty lost to the Revenue by reason of the commission of the offence, whichever is the greater amount.

(4) Sections 110, 111, 112, 114 and 115 of the Revenue Act 1898 apply with necessary modifications in relation to penalties and forfeitures under this section as those provisions apply in relation to penalties and forfeitures under that Act.

(5) Subsection (4) is without prejudice to the application in relation to penalties and forfeitures under this section of any other provision of the Revenue Act 1898 that is also applicable in relation to those penalties and forfeitures according to the tenor of that provision.

(6) Any offence against this Act is triable by a court of summary jurisdiction.

Offences by corporations

15 Where an individual who has committed an offence against this Act was at the time he or she committed the offence a director, manager, secretary or other similar functionary of a body corporate and committed the offence in that capacity, then the body corporate also commits the offence and is liable to be proceeded against and punished accordingly.

Amendment of Schedule

16 The Minister may by order subject to the negative resolution procedure amend the Schedule to this Act.

Commencement

17 This Act shall come into operation on 1 April 2008.

Consequential amendments

18 Section 84A(5) of the Revenue Act 1898 is amended—

(a) in paragraph (l) by deleting "and";

(b) in paragraph (m) by deleting "." and substituting "; and"; and

(c) by inserting the following paragraph next after paragraph (m)—

"(n) Retail Shops (Temporary Customs Duty Relief for Capital Investments) Act 2008.".

SCHEDULE

(section 6)

GOODS OF THE BERMUDA NOMENCLATURE TO WHICH AN APPROVAL APPLIES

Goods of Heading 32.08
Goods of Heading 32.09
Goods of Heading 35.06
Goods of Heading 39.17
Goods of Tariff Code 3918.100
Goods of Tariff Code 3918.900
Goods of Tariff Code 3925.200
Goods of Heading 44.08
Goods of Heading 44.09
Goods of Heading 44.10
Goods of Heading 44.11
Goods of Heading 44.12
Goods of Heading 44.14
Goods of Tariff Code 4418.100
Goods of Tariff Code 4418.200
Goods of Tariff Code 4418.710
Goods of Tariff Code 4418.720
Goods of Tariff Code 4418.790
Goods of Chapter 57
Goods of Tariff Code 6306.120
Goods of Tariff Code 6306.190
Goods of Heading 68.02
Goods of Heading 68.08
Goods of Heading 68.09
Goods of Tariff Code 6810.110
Goods of Tariff Code 6810.190
Goods of Heading 70.05
Goods of Tariff Code 7007.190
Goods of Tariff Code 7007.290
Goods of Tariff Code 7009.910
Goods of Tariff Code 7009.920
Goods of Tariff Code 7306.900
Goods of Tariff Code 7308.300
Iron or steel shelving and shelving system parts of tariff code 7308.909
Goods of Heading 73.17
Goods of Heading 73.18

Goods of Tariff Code 7322.900
Drop ceiling grid main Ts, cross Ts, wall angle and hanger wire of Heading 73.26
Goods of Heading 74.15
Goods of Tariff Code 7610.100
Goods of Tariff Code 7610.909
Goods of Tariff Code 8302.100
Goods of Tariff Code 8302.200
Goods of Tariff Code 8302.410
Goods of Tariff Code 8302.420
Goods of Tariff Code 8302.490
Goods of Tariff Code 8302.500
Goods of Tariff Code 8302.600
Goods of Heading 83.03
Filing cabinets of Heading 83.04
Goods of Tariff Code 8306.300
Goods of Heading 83.07
Goods of Tariff Code 8415.100
Goods of Tariff Code 8415.810
Goods of Tariff Code 8415.820
Goods of Tariff Code 8415.830
Refrigerators, freezers and other refrigerating or freezing equipment of Heading 84.18
Mechanical Water Features of Tariff Code 8424.890
Receipt printers of Tariff Code 8443.320
Goods of Tariff Code 8470.500
Goods of Heading 84.71
Goods of Tariff Code 8471.490
Mechanical cash drawers of Tariff Code 8479.890
Virtual fitting room systems, components, parts and accessories of Chapters 84 and 85
Goods of Tariff Code 8517.110
Goods of Tariff Code 8517.120
Goods of Tariff Code 8517.180
Goods of Tariff Code 8517.610
Goods of Tariff Code 8517.620
Goods of Tariff Code 8517.690
Goods of Tariff Code 8518.100
Goods of Tariff Code 8518.210

Goods of Tariff Code 8518.220
Goods of Tariff Code 8518.290
Goods of Tariff Code 8518.300
Goods of Tariff Code 8518.400
Goods of Tariff Code 8518.500
Goods of Tariff Code 8519.810
Goods of Tariff Code 8525.800
Goods of Tariff Code 8527.910
Goods of Tariff Code 8528.510
Goods of Tariff Code 8531.100
Goods of Tariff Code 8531.200
Goods of Tariff Code 8531.800
Anti-theft tags of Tariff Code 8531.900
Goods of Tariff Code 8536.200
Goods of Tariff Code 8536.300
Goods of Tariff Code 8536.410
Goods of Tariff Code 8536.490
Goods of Tariff Code 8536.500
Goods of Tariff Code 8536.610
Goods of Tariff Code 8536.690
Goods of Tariff Code 8536.700
Goods of Tariff Code 8536.900
Goods of Tariff Code 8544.200
Goods of Tariff Code 8544.490
Goods of Tariff Code 8544.700
Goods of Tariff Code 8547.900
Goods of Tariff Code 9403.100
Goods of Tariff Code 9403.200
Goods of Tariff Code 9403.300
Goods of Tariff Code 9403.600
Goods of Tariff Code 9403.700
Goods of Tariff Code 9405.101
Goods of Tariff Code 9405.109
Goods of Tariff Code 9405.600
Goods of Heading 96.18

[Schedule amended by BR 11 / 2010 s. 2 effective 1 April 2010; amended by BR 16 / 2012 para. 2 effective 1 April 2012; amended by BR 78 / 2015 para. 2 effective 31 August 2015; amended by BR 68 / 2016 para. 2 effective 1 June 2016; amended by 2021 : 12 s. 3 effective 1 April 2021]

RETAIL SHOPS (TEMPORARY CUSTOMS DUTY RELIEF FOR CAPITAL INVESTMENTS) ACT 2008

[Assent Date: 25 March 2008]

[Operative Date: 1 April 2008]

[Amended by:

BR 11 / 2010
2011 : 6
BR 16 / 2012
2013 : 8
BR 78 / 2015
2016 : 5
BR 68 / 2016
2021 : 12
2026 : 17]