

NORFOLK



ISLAND

CUSTOMS (AMENDMENT) ACT 1986

Act No. 36 of 1986

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Customs (Amendment) Act 1986

Act No. 36 of 1986

An Act to amend the *Customs Act 1913*

[Assented to 2 December 1986]

BE IT ENACTED by the Legislative Assembly of Norfolk Island as follows —

Short title

1. This Act may be cited as the *Customs (Amendment) Act 1986*.

Principal Act

2. The *Customs Act 1913* is in this Act referred to as the Principal Act.

Interpretation

3. Section 1A of the Principal Act is amended —
 - (a) in subsection (1) —
 - (i) by inserting after the definition of “fuel” the following:

“ ‘genuine invoice’, in relation to goods, means an invoice for the goods that is not false or misleading in a material particular;
 - ‘goods’ means goods, articles or things whether animate or inanimate;”;
 - (ii) by inserting after the definition of “imported” the following:

“ ‘importer’, in relation to goods, means the person by whom, or at whose direction, goods are imported into Norfolk Island;”;

and

(iii) by inserting after the definition of “personal effects” the following:

“ ‘postal article’ means an article transmissible by post;” and

(b) by adding at the end the following:

“ (3) In this Act, a reference to prohibited goods is a reference to goods —

- (a) the importation or exportation of which is prohibited; or
- (b) the importation or exportation of which is, unless conditions in relation to the importation or exportation are complied with, prohibited,

whether under this Act or under any other law in force in Norfolk Island.”.

Exempt goods

4. Section 2A of the Principal Act is amended —

- (a) in paragraph (1)(a) by inserting after “the passenger” the words “or his family”; and
- (b) in paragraph (1)(b) —
 - (i) by omitting “of passenger’s” and substituting “of a passenger’s”; and
 - (ii) by inserting after “own use” the words “or the use of his family”.

Value of goods

5. Section 2C of the Principal Act is amended by omitting from subsection (1) the words “For the purposes” and substituting “Subject to section 2CA, for the purposes”.

New sections

6. The Principal Act is amended by inserting after section 2C the following:

Rate of exchange

“ 2CA. For the purposes of section 2C, where a price or amount is expressed in currency other than Australian currency, it shall be expressed in its equivalent Australian currency —

- (a) where the goods have been paid for before the date of exportation - at the actual rate of exchange that was applied to the payment; or
- (b) where the goods have not been paid for before the date of exportation - at the rate of exchange equal to the rate applicable on the date of exportation as ascertained by the Collector in the prescribed manner.”.

Import entries

7. Section 4A of the Principal Act is amended —

- (a) by omitting subsection (1) and substituting the following:

“ (1) Subject to subsection (1A), an importer shall make an entry in accordance with the prescribed form, of the whole of any cargo unshipped or to be unshipped, within 14 days after the report under section 3 of the ship or aircraft carrying the goods.

Penalty: 20 penalty units.

“ (1A) Where an importer, whether before or after the expiration of the period referred to in subsection (1), applies to the Collector for an extension of time, the Collector may, by notice in writing to the importer, extend, in relation to goods specified in the notice, the period for as long as the Collector thinks fit.

“ (1B) Where an offence is committed against subsection (1) the Court may, in addition to a penalty imposed under that subsection, impose a penalty not exceeding 2 penalty units in respect of each day during which an entry has not been made in accordance with that subsection.

“ (1C) An additional penalty imposed under subsection (1B) shall not exceed 20 penalty units.”;

- (b) by omitting from subsection (2) the words “last preceding sub-section” and substituting “subsection (1)”; and
- (c) by omitting subsection (3).

Export entries

8. Section 4B of the Principal Act is amended by adding at the end the following:

“ (2) An export entry referred to in subsection (1) shall be in accordance with the prescribed form.”.

New sections

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

Persons making entries to answer questions

“ 4C. (1) A person making an entry shall, if required by the Collector, answer questions relating to the goods referred to in the entry.

“ (2) A person who, without lawful excuse, contravenes or fails to comply with subsection (1) is guilty of an offence.

Penalty: 20 penalty units.

Offence to make false, etc, statement

“ **4D.** (1) A person shall not make a statement or declaration or answer a question in or in connection with an entry that is false or misleading in a material particular.

“ (2) A person who contravenes or fails to comply with subsection (1) is guilty of an offence and, in addition to any other penalty for an offence in relation to an entry, is liable to a penalty not exceeding 20 penalty units.

Production of invoices

“ **4E.** (1) The Collector may —

- (a) on the delivery to the Collector of an import entry; or
- (b) at any time after the delivery of an import entry and before the goods comprised in the entry have ceased to be subject to the control of the Collector,

require the importer to produce to him a genuine invoice for the goods comprised in the entry.

“ (2) Subject to subsection (5), where a genuine invoice for goods is produced to the Collector in pursuance of a requirement under subsection (1), the Collector shall mark the invoice, or cause the invoice to be marked, in the prescribed manner and return it to the importer.

“ (3) Where a genuine invoice produced under subsection (1) relates to goods in addition to the goods in respect of which the requirement was made the Collector shall, in marking or causing to be marked the invoice, indicate that the mark relates to the particular goods in respect of which the requirement was made.

“ (4) Subject to subsection (3), the marking of a genuine invoice in accordance with subsection (2) relates to all the goods comprised in the invoice.

“ (5) Where, under subsection (1), the importer produces to the Collector a genuine invoice for the goods, being an invoice which has previously been marked in relation to the goods in accordance with this section, the Collector is not required to mark the invoice or cause it to be marked again but shall again return the invoice to the importer.

“ (6) Where a requirement under subsection (1) has been made on the delivery of an import entry and the requirement has not been complied with, the Collector shall not pass the entry unless —

- (a) the Collector is satisfied that the requirement cannot be complied with; and
- (b) in the case of goods on which duty is imposed according to value, the Collector is satisfied as to the value for duty of the goods.

“ (7) Until such time as an entry is passed by the Collector, an importer shall be deemed not to have made an entry under subsection 4A(1).

“ (8) The importer who is required under subsection (1) to produce a genuine invoice for goods, being a requirement made otherwise than on the delivery of an import entry in respect of the goods, shall not fail to comply with the requirement.

Penalty: 20 penalty units.

“ (9) A person who is required to produce a genuine invoice under subsection (1) and who produces an invoice that is false or misleading in a material particular is guilty of an offence.

Penalty: 20 penalty units.”.

Customs control of goods

10. Section 5A of the Principal Act is amended by —

(a) omitting subsection (1) and substituting the following:

“ (1) Goods are subject to the control of the Collector —

(a) in the case of goods for which an import entry is required - until the entry is made;

(b) in the case of —

(i) goods that are postal articles - until the article is delivered to the addressee in the ordinary course of post; or

(ii) goods other than those referred to in paragraph (a) or subparagraph (i) until they have passed out of an area set aside for inspection by Customs,

whichever last occurs; and

(c) in the case of goods for export —

(i) from the time an export entry is made; or

(ii) from the time the goods are brought to an appointed landing place for export,

whichever first occurs, until they are laden on board a ship or aircraft.”; and

(b) by inserting after subsection (3) the following:

“ (3A) The control of the Collector especially includes the right of the Collector to examine all goods subject to such control.”.

Examination by Collector

11. (1) Section 10 of the Principal Act is amended by omitting all words after “open and examine” and substituting the following:

“, subject to subsection (2), any packages of goods that are subject to the control of the Collector in accordance with section 5A.

“ (2) Where goods in a package referred to in subsection (1) are prescribed postal articles, the Collector shall not open and examine or cause to be opened and examined a package until the Collector has —

- (a) taken reasonable steps to notify the addressee of the Collector’s intention to open and examine or cause to be opened and examined the prescribed postal article; and
- (b) specified in the notice referred to in paragraph (a) a reasonable period during which the addressee may indicate to the Collector that the addressee will attend at the opening and examination of the prescribed postal article at a time to be nominated by the Collector.”.

No claim for compensation or loss

12. Section 11A of the Principal Act is amended by adding at the end the following:

“ (2) Where the Administration, the Administrator, the Collector or a person authorised by the Collector in pursuance of this Act does an act or makes an omission in good faith —

- (a) in the exercise or purported exercise of a power; or
 - (b) in the performance or purported performance of a function,
- under this Act, no action, claim or demand, either civil or criminal, in respect of that act or omission lies, or shall be commenced or allowed, against the Administration, the Administrator, the Collector or the authorised person.”.

Regulations

13. The Principal Act is amended by omitting section 18A.

Persons may be required to leave ship, etc

14. Section 19B of the Principal Act is amended by adding at the end the following:

“ (2) The Collector or a person authorised by him in that behalf may question a person on board a ship, boat or aircraft or who may have landed from or disembarked from a ship, boat or aircraft as to whether the person has any dutiable goods or prohibited goods on his person or in his possession or in his baggage and the person shall not refuse to reply.

“ (3) A person who, without lawful excuse —

- (a) contravenes or fails to comply with subsection (2); or
- (b) makes a statement that is false or misleading in a material particular,

is guilty of an offence.

Penalty: 10 penalty units.”.

New section

15. The Principal Act is amended by inserting after section 19B the following:

Suspected person may be detained, etc

“ 19C. (1) Where an officer of the Customs or a member of the Police Force believes on reasonable grounds that a person is unlawfully carrying or has goods subject to the control of the Customs or prohibited goods secreted about him the officer of Customs or member of the Police Force may, subject to this section, detain and search the suspected person.

“ (2) Before the person referred to in subsection (1) is searched the person may require to be taken before a Magistrate or the Collector.

“ (3) The Magistrate or the Collector may order the suspected person to be searched or may discharge the person without search.

“ (4) A female shall only be searched by a female searcher appointed by the Magistrate or the Collector.”.

New section

16. The Principal Act is amended by adding before the First Schedule the following:

Regulations

“ 23. (1) The Administrator may make Regulations, not inconsistent with this Act, prescribing matters —

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

“ (2) Without limiting the generality of subsection (1), the Regulations may prescribe —

- (a) conditions relating to ships, boats or aircraft from parts beyond the seas in respect of cargo or goods or crew, passengers or visitors to ships, boats or aircraft; and
- (b) penalties not exceeding 10 penalty units for a contravention or breach of the Regulations.”.

Transitional

17. The First Schedule to the Principal Act which was inserted by section 6 of the *Customs (Amendment No. 2) Act 1983* shall be deemed at all times to have been inserted immediately before the Second Schedule to that Act.

Notified Gazette No. 61, 4 December 1986.

Commenced on notification (4 December 1986).

This enactment amends Act No. 11 of 1913 as previously amended by Act No. 5 of 1929, Act No. 2 of 1932, Act No. 1 of 1933, Act No. 7 of 1934, Act No. 16 of 1934, Act No. 14 of 1936, Act No. 11 of 1954, Act No. 3 of 1955, Act No. 3 of 1956, Act No. 8 of 1958, Act No. 1 of 1961, Act No. 3 of 1963, Act No. 6 of 1964, Act No. 2 of 1965, Act No. 3 of 1970, Act No. 2 of 1971, Act No. 1 of 1973, Act No. 4 of 1973, Act No. 3 of 1977, Act No. 7 of 1977, Act No. 8 of 1977, Act No. 4 of 1979, Act No. 13 of 1979, Act No. 10 of 1980, Act No. 24 of 1981, Act No. 9 of 1982, Act No. 16 of 1983, Act No. 21 of 1983, Act No. 8 of 1984 and Act No. 33 of 1986.

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