

ACT NO. 23 OF 2015

I assent.

J. K. KONROTE
President

[23 November 2015]

AN ACT**TO AMEND THE CUSTOMS ACT 1986**

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

- 1.—(1) This Act may be cited as the Customs (Budget Amendment) Act 2015.
- (2) This Act shall come into force on 6 November 2015.
- (3) In this Act, the Customs Act 1986 shall be referred to as the “Principal Act”.

Section 2 amended

2. Section 2 of the Principal Act is amended by—

- (a) deleting the definitions of “dispute”, “duty suspension scheme” and “Exporters Club”; and
- (b) inserting the following new definition after the definition of “customs enclosed area”—

“Customs dog” means a dog that is being used or intended to be used by Customs;”

Section 8 amended

3. Section 8 of the Principal Act is amended in subsection (2) by deleting paragraph (h).

Part 7B deleted

4. The Principal Act is amended by deleting Part 7B.

Section 24 amended

5. Section 24 of the Principal Act is amended in subsection (4) by deleting “or other goods entered under the duty suspension scheme”.

Section 37 amended

6. Section 37 of the Principal Act is amended in subsection (2)—

(a) in paragraph (d) by deleting “.” and substituting “;”;

(b) adding the following paragraphs after paragraph (d)—

“(e) the warehouse shall be certified by the Occupational Health and Safety standards; and

(f) the warehouse shall be certified by the National Fire Authority for proper safety standards.”

Section 67 amended

7. Section 67 of the Principal Act is amended in subsection (1) by deleting paragraph (i).

Section 92 amended

8. The Principal Act is amended—

(a) in subsection (6) by deleting “or under Part 7B of this Act,”;

(b) by inserting the following subsections after subsection (9A)—

“(10) The owner of the goods may make advance payments of duty to a prepayment facility provided by Customs.

(11) The Comptroller may deduct the duty from the prepayment facility upon importation of the goods.

(12) The Comptroller may, subject to such terms and conditions as he or she may impose, approve any person or class of persons as persons who may defer the payment of duty due and, for that purpose, may determine a duty accounting period, and may suspend or withdraw that approval, or vary any term or condition under which the approval is given or vary the duty accounting period.

(13) Where the Comptroller makes any decision under subsection (12), the persons or class of persons affected shall be advised of the decision by notice in writing.

(14) Where any duty the payment of which has been deferred in accordance with subsection (12) remains unpaid by the due date for payment, there shall be imposed—

- (a) additional duty of 5% of the amount of duty unpaid by the due date;
- (b) additional duty of 2% of the amount of duty, including additional duty, unpaid at the end of the period of 1 month after the due date; and
- (c) additional duty of 2% of the amount of duty, including additional duty, unpaid at the end of each succeeding period of 1 month.

(15) Notwithstanding subsection (15), the Comptroller may, in his or her discretion, remit or refund the whole or any part of any additional duty imposed under subsection (15).

(16) Where, for any reason the amount of duty in respect of which additional duty has been imposed under subsection (15) is amended, the additional duty shall, where necessary, be adjusted accordingly.

(17) A person liable for the payment of duty and who is dissatisfied with a decision of the Comptroller under subsection (15) may, within 20 working days after the date on which notice of the decision was given, appeal to a Court of Review against that decision.”

Section 95 amended

9. Section 95 of the Principal Act is amended in subsection (2) by deleting “until that debt is paid” and substituting “in the manner specified in section 95A1”.

Insertion of section 95A1

10. The Principal Act is amended by inserting the following section after section 95A—

“Dealing with goods subject to lien

95A1.—(1) For any good subject to a lien under section 95(2), the Comptroller may detain the goods and recover the debt,—

- (i) within 1 year, for perishable goods; and
- (ii) within 3 years, for any other goods.

(2) If the Comptroller is unable to recover the debt due within the specified time stated in subsection (2), for any goods subject to a lien, the Comptroller may determine the manner in which the goods are to be disposed.”

Section 96 amended

11. Section 96 of the Principal Act is amended by inserting the following subsection after subsection (5)—

“(6) Notwithstanding anything in any other tax law, the Comptroller may refrain from collecting or refunding tax if the amount of tax to be collected or refunded does not exceed \$10.”

Insertion of section 101B

12. The Principal Act is amended by inserting the following section after section 101A—

“Extension of time to pay tax

“101B.—(1) Any importer, exporter or licensee may apply, in writing to the Comptroller for an extension of time to pay duty after an audit and investigation under a Customs law.

(2) If an application has been made under this section, the Comptroller may, having regard to the circumstances of the case—

(a) grant the importer, exporter or licensee an extension of time payment of the duty payable; or

(b) require the importer, exporter or licensee to pay the duty payable in such installments as the Comptroller may determine,

and the Comptroller must serve the taxpayer with written notice of the decision.”

Section 109 amended

13. Section 109 of the Principal Act is amended by adding the following subsection after subsection (1)—

“(1A) Any proper officer who conducts a search under this section, may use a Customs dog, where necessary or reasonably required.”

Section 114 amended

14. Section 114 of the Principal Act is amended by adding the following subsection after subsection (2)—

“(3) Any examination specified in subsections (1) and (2), may be facilitated by a Customs dog.”

Insertion of section 122A

15. The Principal Act is amended by inserting the following section after section 122—

“Use of Customs dog by Customs officer

122A.—(1) In exercising any power of boarding, entry or search conferred under this Act, a proper officer may use a Customs dog to assist in searches.

(2) Nothing in this section applies to search carried out on any premises except pursuant to a warrant.”

Section 123 amended

16. Section 123 of the Principal Act is amended—

- (a) by deleting “(e)” and substituting “(g)”;
- (b) in paragraph (d) by deleting “or” after “;”;
- (c) by inserting the following new paragraphs after paragraph (d)—
 - “(e) intentionally interferes with a customs dog used or intended for use, by Customs;
 - (f) does any act with the intention of impairing the effectiveness of a customs dog used, or intended for use, by Customs; or”.

Insertion of section 123A

17. The Principal Act is amended by adding the following section after section 123—

“Killing or injuring customs dog

123A.—(1) Any person who intentionally kills, maims, wounds or otherwise injures a customs dog without lawful authority or reasonable excuse commits an offence.

(2) Every person who commits an offence against this section is liable on conviction to imprisonment for a term not exceeding 2 years, or to a fine not exceeding \$15,000, or to both.”

Insertion of section 137E

18. The Principal Act is amended by inserting the following section after section 137D—

“Price of goods to reflect duty decrease

137E.—(1) If the percentage of duty decreases, all persons in the supply chain to the ultimate consumer must reflect the actual percentage duty decrease in the sale price of the goods.

(2) The onus of proving that the price at which the goods are sold reflects the actual percentage duty decrease shall be on the person selling the goods at any stage of the supply chain.

(3) A person who fails to comply with subsection (1) shall be liable to a fine not exceeding \$50,000 which must be payable by that person within 21 days of notification by the Chief Executive Officer.

(4) A person who fails to pay the fine as prescribed in subsection (3) within the time period prescribed in subsection (3), shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding \$100,000 or to a term of imprisonment not exceeding 10 years.

(5) The Minister may make regulations prescribing fines for the purpose of subsection (3).”

Section 184 deleted

19. The Principal Act is amended by deleting section 184.

Repeal

20. The Customs (Duty Suspension Scheme) Regulations 2002 are repealed.

Passed by the Parliament of the Republic of Fiji this 20th day of November 2015.