

CUSTOMS BILL
(No. [] of 2016)

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CUSTOMS BILL
(No. [] of 2016)

A BILL

for

AN ORDINANCE

To make provision about customs duties and prohibitions, including duties and controls on import, export, production and sale.

ENACTED by the Commissioner as follows:

PART 1

PRELIMINARY

1 Title

This Ordinance may be cited as the Customs Ordinance 2016.

2 Commencement

This Ordinance comes into force when it is published in the *Gazette*.

3 Interpretation

In this Ordinance—

“customs officer” means a person appointed as a customs officer under Part 2;

“customs orders” means orders under this Ordinance;

“export” means taking goods out of the Territory;

“goods” includes any substance, article or thing (including animals);

“import” means bringing goods into the Territory;

“intimate search” means a search in the course of which clothing (other than an outer coat or jacket, headgear or gloves) is removed or displaced or required to be removed or displaced;

“property” includes premises, vessels, aircraft and vehicles.

PART 2

OFFICERS

4 Collector of Customs

- (1) The Commissioner shall appoint a Collector of Customs.
- (2) The Collector of Customs has the function of overseeing the administration of the provisions of Part 3.
- (3) An appointment under subsection (1) may be—
 - (a) personal, or
 - (b) ex officio.
- (4) An appointment under subsection (1)—

- (a) must be published in the Gazette, and
- (b) shall have effect in accordance with any specified terms or conditions (which may include provision about tenure and remuneration).

5 Customs officers

- (1) The Commissioner shall appoint customs officers.
- (2) Customs officers have the functions conferred on them by this Ordinance.
- (3) An appointment under subsection (1) may be—
 - (a) personal, or
 - (b) ex officio.
- (4) An appointment under subsection (1)—
 - (a) must be published in the Gazette, and
 - (b) shall have effect in accordance with any specified terms or conditions (which may include provision about tenure and remuneration).

PART 3

CONTROLS

6 Customs duties

- (1) The Commissioner may by order—
 - (a) impose duties on the import of specified goods;
 - (b) impose duties on the export of specified goods;
 - (c) impose duties on the production of specified goods in the Territory;
 - (d) impose duties on the sale or supply of specified goods in the Territory.
- (2) Customs officers shall be responsible for collecting duties under this section.
- (3) An order under subsection (1)—
 - (a) must specify the rate of duty to be charged;
 - (b) may make provision for exemptions, waivers or reductions;
 - (c) may include provision about payment (including timing and interest);

- (d) may confer a discretion on customs officers, on the Collector of Customs, on the Commissioner or on another specified person;
- (e) may make provision that applies generally or only for specified purposes;
- (f) may make different provision for different purposes;
- (g) may include incidental, transitional or consequential provision.

7 Prohibited goods

- (1) The Commissioner may by order—
 - (a) prohibit the import of specified goods;
 - (b) prohibit the export of specified goods;
 - (c) prohibit the production of specified goods in the Territory;
 - (d) prohibit the sale or supply of specified goods in the Territory.
- (2) Customs officers shall be responsible for enforcing prohibitions under this section.
- (3) An order under subsection (1)—
 - (a) may make provision for exemptions or waivers;
 - (b) may confer a discretion on customs officers, on the Collector of Customs, on the Commissioner or on another specified person;
 - (c) may make provision that applies generally or only for specified purposes;
 - (d) may make different provision for different purposes;
 - (e) may include incidental, transitional or consequential provision.

PART 4

ENFORCEMENT

8 Declarations and clearance

- (1) The Commissioner may by order—
 - (a) require persons entering or leaving the Territory to make declarations in respect of compliance with regulations under Part 3 or in respect of such other matters as the Commissioner thinks desirable in connection with matters addressed by this Ordinance;

(b) provide for a system of inspections and clearance for persons entering or leaving the Territory in respect of compliance with regulations under Part 3 or in respect of such other matters as the Commissioner thinks desirable in connection with matters addressed by this Ordinance.

(2) An order under subsection (1)—

(a) may include provision for the charging of fees (which may include provision for exemptions, waiver or reductions);

(b) may impose obligations on persons with command of, or exercising other specified functions in relation to, vehicles, vessels and aircraft;

(c) may confer a discretion on customs officers, on the Collector of Customs, on the Commissioner or on another specified person;

(d) may make provision that applies generally or only for specified purposes;

(e) may make different provision for different purposes;

(f) may include incidental, transitional or consequential provision.

9 Seizure of goods

(1) Customs orders may include provision allowing the Collector of Customs, customs officers or other specified officials (“the relevant officer”)—

(a) to seize goods if the relevant officer suspects that a provision of a customs order has been or is likely to be breached in respect of the goods;

(b) to dispose of seized goods.

(2) A customs order that includes provision under subsection (1) must also include provision for—

(a) review by the Commissioner of decisions relating to seizure; and

(b) an appeal to a court (whether by a person from whom goods are seized or by another person with an interest in the goods) in respect of decisions relating to seizure.

10 Information and searches

(1) A customs officer may exercise the following powers for the purposes of—

(a) ensuring compliance with customs orders;

(b) investigating actual, prospective or intended breaches of customs orders;

- (c) obtaining evidence in respect of breaches of customs orders.
- (2) The powers are to require a person to—
 - (a) answer questions;
 - (b) make declarations;
 - (c) provide information or documents
- (3) A customs officer may search persons or property if the customs officer reasonably suspects that goods will be found—
 - (a) in respect of which duty is payable under a customs order,
 - (b) which are evidence of a breach of a customs order, or
 - (c) in respect of which there is an intention to breach a customs order.
- (4) The power under subsection (3) may not be used to carry out intimate searches of persons; and the Commissioner—
 - (a) may make regulations permitting intimate searches in specified circumstances and subject to compliance with specified conditions;
 - (b) may make regulations imposing conditions on searches under subsection (3).

11 Offences

- (1) A person who fails to pay duty which is due by virtue of this Ordinance, with intent to evade payment, commits an offence.
- (2) A person who knowingly breaches any other provision of a customs order commits an offence.
- (3) A person who fails without reasonable excuse to comply with a requirement imposed by a customs officer by virtue of this Ordinance commits an offence.
- (4) A person who without reasonable excuse obstructs a customs officer in the exercise of functions by virtue of this Ordinance, or who fails without reasonable excuse to cooperate with a customs officer in the exercise of functions by virtue of this Ordinance, commits an offence.
- (5) A person who is guilty of an offence under this section is liable on conviction to—
 - (a) imprisonment for a period not exceeding 5 years,
 - (b) a fine not exceeding £10,000, or

- (c) both.
- (6) The Commissioner may make regulations allowing the Collector of Customs to impose a civil penalty in respect of action constituting an offence under this section; and the regulations—
 - (a) must specify the amount of a penalty or provide for the amount to be determined in accordance with specified criteria;
 - (b) may include provision about payment (including time and interest);
 - (c) may provide for penalties to be enforceable as a debt owed to the Collector of Customs;
 - (d) must provide for penalties (and interest) to be paid into the Consolidated Fund of the Territory;
 - (e) may confer a discretion on the Collector of Customs;
 - (f) may make provision that applies generally or only for specified purposes;
 - (g) may make different provision for different purposes;
 - (h) may include ancillary, transitional or consequential provision.

12 Arrest and detention

- (1) A customs officer may arrest a person on reasonable suspicion of having committed an offence under this Ordinance.
- (2) A customs officer may detain a person arrested under subsection (1).
- (3) The Commissioner shall make regulations about—
 - (a) maximum periods of detention under this section;
 - (b) procedure to be followed in making arrests under this section;
 - (c) conditions of detention under this section (including provision about moving detained persons to locations inside or outside the Territory); and
 - (d) any other incidental matters that the Commissioner thinks fit.

13 Procedure

- (1) The Commissioner may make regulations prescribing procedure to be followed in respect of any matter for which provision is made by a customs order.

(2) Regulations under subsection (1) may include provision about—

- (a) forms;
- (b) notices;
- (c) timing.

14 Review and appeal

- (1) A person aggrieved by any decision made by a customs officer may refer the matter to the Collector of Customs for review.
- (2) An appeal lies to the Magistrates Court against any decision of the Collector of Customs.