

No. 27 of 2003.

Customs (2004 Budget Provisions Amendment) Act 2003.

Certified on: 13.04.04



INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 2003.

Customs (2004 Budget Provisions Amendment) Act 2003.

ARRANGEMENT OF SECTIONS.

1. Interpretation (Amendment of Section 1).
2. Owner or importer of goods to keep records (Amendment of Section 17A).
3. Maximum period of warehousing (Amendment of Section 63).
4. Maximum period of warehousing (Amendment of Section 73).
5. New Division XII.IA.
 - "Division IA. – Administrative Penalties."**
 - "147A. INTERPRETATION."**
 - "147B. ADMINISTRATIVE PENALTIES."**
 - "147C. REMISSION OF PENALTY."**
 - "147D. SECTION 147B NOT TO APPLY IN CERTAIN CASES."**
6. Customs control (Amendment of Section 192A).



INDEPENDENT STATE OF PAPUA NEW GUINEA.

AN ACT

entitled

Customs (2004 Budget Provisions Amendment) Act 2003,

Being an Act to amend the *Customs Act* (Chapter 101),

MADE by the National Parliament and to come into operation on 25 November 2003.

1. INTERPRETATION (AMENDMENT OF SECTION 1).

Section 1 of the Principal Act is amended –

(a) in the definition of “Commissioner General” by adding the following:-

“and any reference in this Act to the Comptroller or the Commissioner shall be deemed to include the Commissioner General.”; and

(b) in the definition of “Commissioner of Customs” by adding the following:-

“and any reference in the Act to the Comptroller or the Commissioner shall be deemed to include the Commissioner of Customs.”.

2. OWNER OR IMPORTER OF GOODS TO KEEP RECORDS (AMENDMENT OF SECTION 17A).

Section 17A of the Principal Act is amended by adding the following new Subsection:-

“(3) For the purposes of this section, the owner of goods shall be deemed to be keeping records in the English language if he keeps records stored in magnetic tapes or computer disks or other information or storage devices which are readily accessible and convertible into written form in the English language.”.

3. MAXIMUM PERIOD OF WAREHOUSING (AMENDMENT OF SECTION 63).

Section 63 of the Principal Act is amended by repealing the words “six months” and replacing them with the following: -

“twelve months”.

Customs (2004 Budget Provisions Amendment)

4. MAXIMUM PERIOD OF WAREHOUSING (AMENDMENT OF SECTION 73).

Section 73 of the Principal Act is amended by repealing the words "six months" and replacing them with the following:-

"twelve months".

5. NEW DIVISION XII.1A.

Part XII of the Principal Act is amended by inserting after Division 1 the following new Division: -

"Division 1A. -Administrative Penalties.

"147A. INTERPRETATION.

In this Division, unless the contrary intention appears-

"materially incorrect" means that the entry contains an error or omission in relation to any of the following matters:-

- (a) the identity of the overseas supplier;
- (b) the identity of the importer or exporter;
- (c) the identity of the person making the entry;
- (d) the identification of the importing or exporting vessel, aircraft or vehicle and its voyage or registration number;
- (e) the bill of lading, air way bill, or container identification details;
- (f) the Supplier's invoice number;
- (g) the customs general orders;
- (h) the tariff item in which the goods are classified under the *Customs Tariff Act 1999*;
- (i) a customs agent's code number;
- (j) the statistical quantity of the goods;
- (k) the exchange rate for the currency in which the goods are traded;
- (l) the value for duty expressed in the currency in which the goods are traded;
- (m) the value for duty expressed in Papua New Guinea Kina;
- (n) the country of origin or destination of the goods;
- (o) the country from which the goods have been exported from;
- (p) the amount paid or payable to transport the goods to PNG from the country of exportation, including any amount paid or payable for internal transportation of the goods in that country;
- (q) the insurance costs associated with importation of the goods, including of any insurance costs in the country of exportation;

Customs (2004 Budget Provisions Amendment)

- (r) the particulars of shipping containers, packages or break bulk including marks and numbers."

"147B. ADMINISTRATIVE PENALTIES.

(1) Subject to Section 147C, where the Commissioner General is satisfied that an entry of goods pursuant to Section 35 of the Act contains an error or omission and that as a result-

- (a) the amount of duty payable under the Act has not been paid or declared for payment or would not have been paid or declared for payment; or
(b) the entry is otherwise materially incorrect,

the Commissioner General may, within 12 months after the entry was made, by notice in writing, require the owner or agent of the goods to pay within 30 days after service of the notice, a penalty of an amount not exceeding 200 percent of the duty unpaid, not declared or attempted to be avoided.

"(2) The notice under Subsection (1) may be served on the owner of the goods or his agent.

"(3) Where the Commissioner General serves a notice under Subsection (2) in relation to a statement made, or omission from a statement made, by a person, proceedings may also be instituted under Section 153 against that person in relation to that statement or omission.

"(4) For the purposes of Subsection (1), any document presented to Customs in respect of any goods under the control of Customs is to be treated as a statement made to an officer.

"(5) If an amount required to be paid in accordance with Subsection (1) is not paid, it becomes, upon the expiration of that period, a debt due to the State and may be recovered in a court of competent jurisdiction.

"(6) Where a person, in respect of whom a demand for payment of penalty in respect of any particular goods has been made under Subsection (1), makes an application under Section 177 or 178 for review of the decision as to the amount of duty payable on those goods -

- (a) the period commencing on the making of that application and ending on the final determination of the amount of duty by the Commissioner General or by a Court on appeal from the decision of the Commissioner General shall not be taken into account in computing the period of 30 days referred to in Subsections (1) and (5); and

Customs (2004 Budget Provisions Amendment)

- (b) if it is determined that the duty or any part of the duty demanded in respect of those goods is not payable, the demand for penalty shall be treated as if it were a demand for such amount as would be appropriate under Subsection (1) having regard to the determination of the Commissioner General."

"147C. REMISSION OF PENALTIES.

(1) Where a penalty is payable under Section 147B, the Commissioner General may, on the basis of a written application made within 30 days from the date of service of the notice under Subsection (2) by the person liable to pay the penalty, remit the whole or any part of the penalty.

"(2) The Commissioner General shall inform the applicant of his decision in relation to the application within 30 days after receiving an application for remission of penalty.

"(3) In considering to remit the whole or a part of the penalty in respect of a statement or an omission from a statement referred to in Section 147B, the Commissioner General may have regard to the following matters:-

- (a) whether the applicant or his agent, as the case may be, has voluntarily admitted that the statement or omission, is false or misleading;
- (b) the risk to revenue occasioned by such a statement or omission;
- (c) the capacity of the applicant or his agent to have avoided making such a statement or omission and the extent to which that capacity was exercised;
- (d) the history of the applicant or his agent in making such statements or omissions resulting in previous revenue loss or any Customs prosecution instituted against the applicant or his agent.

"(4) Where a decision of the Commissioner General under Section 177 or Section 178 or of a Court on an appeal from such decision results in a lesser amount of duty being payable in respect of imported goods than the amount demanded by a Collector, or results in no duty being payable in respect of those goods, the Commissioner General shall remit any penalty paid under Section 147B in respect of those goods to the extent necessary to give effect to the decision of the Commissioner General or of the Court."

Customs (2004 Budget Provisions Amendment)

"147D. SECTION 147B NOT TO APPLY IN CERTAIN CASES.

(1) Where the owner of goods or his agent is uncertain whether particular information included in a statement made in respect of those goods might be regarded as false or misleading in a material particular, that owner or agent may, by writing included in the statement, nominate that information as information of which the owner or agent is uncertain and set out the reasons for that uncertainty, and, where the owner or agent does so to the satisfaction of the Collector, no penalty shall be imposed under Section 147B in relation to that information.

(2) Where the owner of goods or the agent of the owner is uncertain whether, by reason of the omission of particular information from a statement made in respect of those goods, that statement might be regarded as misleading in a material particular, that owner or his agent may, by writing included in the statement, specify the information that has been omitted and set out the reasons for uncertainty concerning the effect of the omission and where the owner or agent does so to the satisfaction of the Collector, no penalty shall be imposed under Section 147B in relation to that omission."

6. CUSTOMS CONTROL (AMENDMENT OF SECTION 192A)

Section 192A of the Principal Act is amended by inserting after the words "in relation to the" the following words: -

"contiguous zone,"

Customs (2004 Budget Provisions Amendment)

I hereby certify that the above is a fair print of the ***Customs (2004 Budget Provisions Amendment) Act 2003*** which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the ***Customs (2004 Budget Provisions Amendment) Act 2003*** was made by the National Parliament on 2 December 2003.

Acting Speaker of the National Parliament.