

Customs And Excise (Amendment) Act 1984

ACT NO. 3 OF 1984

[Date of Assent: 16.4.84]  
[Date of Commencement: Promulgation]  
ACT

To amend the Customs and Excise Act, 1982.

1. This Act may be cited as the Customs and Excise (Amendment) Act, 1984. Short title
2. Section 25 of the Principal Act is repealed and replaced by the following: Repeal and replacement of section 25 of Act No. 10 of 1982
- 25(1) Except with prior permission of the Director — "Transfer of ownership or pledging or hypothecation of warehoused goods"
- (a) the owner of any dutiable goods in a customs and excise warehouse may not enter into any agreement whereby —
- (i) his ownership of such goods is transferred to any other person; or
- (ii) such goods are pledged or otherwise hypothecated in favour of any other person;
- (b) any person in whose favour such goods have been pledged or hypothecated may not enter into any agreement whereby any rights obtained by him by virtue of such pledging or hypothecation are ceded to any other person.
- (2) Any agreement entered into contrary to subsection (1) shall, for the purpose of this Act be deemed to be void."
3. Section 39(3) of the Principal Act is deleted and substituted by the following: Amendment of Section 39(3) of Act No. 10 of 1982
- "(3) (a) Every exporter of any goods shall, before such goods are exported from Lesotho, deliver to the Director a bill of entry in the prescribed form, but the Director may —
- (i) if no export duty is payable on and no obligation or condition is to be fulfilled or complied with under any law in respect of such goods; or
- (ii) in the case of goods to be exported overland by way of a vehicle, excluding an aircraft and a train, which are loaded for export at a place other than a place appointed under section 6 where goods may be entered for Customs and Excise purposes,
- allow such a bill of entry to be delivered at such time as he deems reasonable.

(b) For the purposes of paragraph (a), in relation to the delivery of a bill of entry, the goods referred to therein shall be deemed to have been exported from Lesotho —

(i) in the case of the goods to be exported in a ship, at the time when such goods are delivered to transport services, a depot operator, the master of the ship concerned or a container operator, as the case may be;

(ii) in the case of goods to be exported in an aircraft at the time when such goods are delivered to the pilot of the aircraft concerned or are brought within the control area of the airport authority concerned, as the case may be;

(iii) in the case of goods to be exported in a train, at the time when such goods are delivered to the railway authorities at that place;

(iv) in the case of goods to be exported overland in a vehicle, excluding an aircraft and train, subject to paragraph (a), at the time when such goods are loaded on the vehicle concerned."

Amendment  
of section 41 (3)  
of Act No. 10  
of 1982

4. Section 41 of the Principal Act is amended in subsection

(a) by deleting paragraph (a) (ii) and substituting the following:

"(ii) if a bill of entry has been passed in error by reason of having duty being paid on goods intended for storage or manufacture in a customs and excise warehouse under section 19 or for purposes or use under rebate of duty under section 76, the Minister may allow the importer, exporter or manufacturer concerned to adjust that bill of entry by substitution of a fresh bill of entry and cancellation of the original bill of entry, provided such goods, where a rebate of duty is being claimed, qualified at the time the duty was paid in all respects for that rebate";

(b) by deleting paragraph (aa) and substituting the following paragraphs:

"(aA) Paragraph (a) (ii) shall apply *mutatis mutandis* in respect of a bill of entry in which goods have according to the tariff heading, tariff subheading, item or circumstances according to which such goods are charged with duty, been described in error as goods other than goods intended for —

(i) storage or manufacture in a customs and excise warehouse under section 19; or

(ii) purposes or use under rebate of duty under section 76; in consequence of the fact that —

(aa) a determination of any such tariff heading, tariff subheading or item is, under section 48(9) (d), amended with retrospective effect as from a date before or on the date on which the goods described in such a bill of entry have been entered for home consumption;

(bb) any such determination is, under the said section 48(9) (d) withdrawn with such retrospective effect, and a new determination is thereunder made with effect from such withdrawal; or

(cc) any schedule is amended with such retrospective effect, and in which such goods if such amendment or new determination had been in operation on the date on which such goods were so entered, would have been described as goods intended for the said storage or manufacture or the said purposes or use;” and

(c) by deleting paragraph (b) and substituting the following:

“b) No application for such substitution as is referred to in paragraph (a) (ii) or in that paragraph read with paragraph (aA) shall be considered by the Minister unless it is received by the Director supported by the necessary documents and other evidence to prove that such substitution is justified within a period of three months.

(i) from the date on which the duty to which the application relates was paid;

(ii) in the case of any amendment of a determination referred to in subparagraph (aa) of paragraph (aA) or of a new determination referred to in subparagraph (bb) of said paragraph (aA) from the date on which such amendment is effected or such new determination is made or if such amendment or new determination is published by notice in the Gazette, the date on which such amendment or new determination is so published; or

(iii) in the case of an amendment referred to in subparagraph (cc) of the said paragraph (aA) from the date on which such amendment is published by notice in the Gazette”.

5. Section 57 of the Principal Act is amended by deleting subsection (1) and substituting the following subsection:

“(1) Whenever, before any anti-dumping duty is imposed under section 55 the Minister is satisfied that the

Amendment of section 57 of Act No. 10 of 1982

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requirements of section 55 (1) (a), (b) and (c) are satisfied in respect of any class or kind of imported goods he may, on the recommendation of the Ministry of Trade Industry & Tourism, by notice in the *Gazette*, impose a provisional charge in relation to anti-dumping duty on imported goods of that class or kind for a period not exceeding four months as from the date of publication of such notice or if requested thereto by the importer concerned before the expiry of the said period for a further period not exceeding two months."

Amendment  
of section  
77(4) of Act  
No. 10 of  
1982

6. Section 77 of the Principal Act is amended by deleting subsection (4) and substituting the following:

"(4) No application for a refund or payment in terms of this section shall be considered by the Director unless it is received by him duly completed and supported by the necessary documents and other evidence to prove that such refund or payment is due under this section within a period of two years —

- (a) from the date on which the duty or charge to which the application relates was paid; or
- (b) in the case where:
  - (i) a determination of a tariff heading, tariff sub-heading or item referred to in paragraph (a) of subsection 48(9) or of a value referred to in paragraph (a) of subsection (5), of section 67 is under paragraph (d) of the said section 48(9) or subsection (5) of the said section 67 as the case may be amended with retrospective effect from a date before or on the date on which the duty to which the application relates was paid; or
  - (ii) any such determination is, under the said paragraph (d) or subsection (5) as the case may be, withdrawn with such retrospective effect and a new determination is thereunder made with effect from such withdrawal from the date on which such new determination is made; or
  - (iii) if such amendment or new determination is published by notice in the *Gazette* the date on which such amendment or new determination is so published; or
- (c) in the case where any schedule is amended with such retrospective effect from the date on which such amendment is published by notice in the *Gazette*."

Amendment  
of section  
107 of Act  
No. 10 of  
1982

7. Section 107 of the Principal Act is amended in subsection (2) (a) by inserting the words "including conditions relating to security" immediately after the words "except on such conditions."