

CUSTOMS AND EXCISE DUTY (AMENDMENT) ACT, 1985

No. 11



of 1985

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Amendment of section 2 of Cap. 50:01
3. Amendment of section 14 of principal Act
4. Application of section 41 of principal Act to sunflower seed oil
5. Amendment of section 45 of principal Act
6. Amendment of section 51 of principal Act
7. Amendment of section 57 of principal Act
8. Amendment of section 74 of principal Act
9. Amendment of section 79 of principal Act
10. Amendment of section 84 of principal Act
11. Insertion of new section 101 in principal Act
12. Validation of certain statutory instruments amending Schedules Nos. 1
6 of principal Act
13. Commencement of certain statutory instruments

An Act to amend the Customs and Excise Duty Act

Date of Assent: 9.5.85

Date of Commencement: 17.5.85

ENACTED by the Parliament of Botswana.

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| <p>1. This Act may be cited as the Customs and Excise Duty (Amendment) Act, 1985.</p> | <p>Short title</p> |
| <p>2. Section 2 of the Customs and Excise Duty Act (in this Act referred to as the "principal Act") is hereby amended by substituting for the definition "container operator" in subsection (1) thereof the following new definition —
"container operator" means any person providing international transportation of containerized goods, and approved by the Director, under section 101, for operating containers in Botswana;</p> | <p>Amendment
of section 2
of Cap. 50:01</p> |
| <p>3. Section 14 of the principal Act is hereby amended by substituting for subsection (1) thereof the following new subsection —</p> | <p>Amendment
of section 14
of principal
Act</p> |

“(1) Any person entering or leaving Botswana shall, in such manner as the Director may determine, unreservedly declare all goods in his possession which he brought with him into Botswana or proposes taking with him beyond the borders of Botswana, and shall furnish an officer with full particulars thereof, answer fully and truthfully all questions put to him by such officer and, if required by such officer to do so, produce and open such goods for inspection by the said officer.”.

Application
of section 41
of principal
Act to sun-
flower seed
oil

4. For the purposes of section 41(3) of the principal Act —
- (a) bills of entry passed on 30th March, 1983, and 18th April, 1983 in relation to sunflower seed oil shall, notwithstanding the provisions of item 460.03 (in relation to tariff heading No. 15.07) of Schedule No. 4, be deemed to have been passed in error by reason of duty having been paid on goods intended for purposes or use under rebate of duty under section 79;
 - (b) such sunflower oil shall be deemed to have qualified at the time duty was paid thereon in all respects for rebate; and
 - (c) the duty paid on the sunflower seed oil concerned shall be deemed to have been paid on the date of commencement of this Act.

Amendment
of section 45
of principal
Act

5. Section 45 of the principal Act is hereby amended —
- (a) by substituting for paragraph (b) of subsection (6) thereof the following new paragraph —
 - “(b) in respect of goods containerized in —
 - (i) L.C.L. containers; and
 - (ii) other containers delivered to a container operator as contemplated in subsection 5(c) and specified in a list to be compiled by the container operator concerned, upon delivery thereof to a depot operator; or”;
 - (b) by substituting for paragraph (a) of subsection (7) thereof the following new paragraph —
 - “(a) in respect of goods containerized in L.C.L. containers and the other containers referred to in subparagraph (6)(b)(ii), upon lawful delivery thereof, after due entry thereof has been made, to the importer or his agent; or”.

Amendment
of section 51
of principal
Act

6. Section 51 of the principal Act is hereby amended by the deletion of subsection (7) thereof.

Amendment
of section 57
of principal
Act

7. Section 57 of the principal Act is hereby amended by substituting for subsection (8) thereof the following new subsection—

“(8) The provisions of section 51(4), (5) and (6) shall mutatis mutandis apply in respect of any amendment made under the provisions of subsection (1) or (2) of this section.”.

8. Section 74 of the principal Act is hereby amended —

**Amendment
of section 74
of principal
Act**

(a) by substituting for the words preceding the first proviso to subsection (2) thereof the following new words —

“Where any motor vehicle is imported by an individual for his own use and not for sale, the Director may, notwithstanding the provisions of section 69(1) and (4) but with due regard to the provisions of section 70, determine a value which shall, subject to a right of appeal to the court, mutatis mutandis in accordance with the provisions of section 69(6), be deemed to be the value for duty purposes of such vehicle:”; and

(b) by substituting for the words “natural person” which appear in the first proviso to the said subsection (2), the word “individual”.

9. Section 79 of the principal Act is hereby amended —

**Amendment
of section 79
of principal
Act**

(a) by substituting for subsection (5) thereof the following new subsection —

“(5) (a) Notwithstanding anything to the contrary in this Act contained, any distillate fuel or residual fuel oil which may be entered under rebate of duty under any item of Schedule No. 4 or 6, shall be so entered by the supplier thereof.

(b) Any distillate fuel or residual fuel oil so entered shall, if supplied to a reseller or user thereof, be so supplied in such manner and on such conditions as may be prescribed by regulations.

(c) Any reseller so supplied who supplies such distillate fuel or residual fuel oil to any user, shall so supply it in such manner and on such conditions as may be prescribed by regulations.

(d) If a supplier mentioned in paragraph (a) supplies any distillate fuel or residual fuel oil entered as stated in paragraph (a) to any reseller or user contrary to the manner or conditions prescribed by regulations, he shall be liable for such duty thereon as may at the time of such entry or, if the duty concerned has after such entry been increased, of the payment of such duty, be leviable thereupon, as if no rebate of duty applied thereto.

(e) If any reseller mentioned in paragraph (c) supplies any distillate fuel or residual fuel oil to any user contrary to the manner or conditions prescribed therefor by regulations, he shall be liable for the duty thereon to the extent of the rebate allowed to the supplier mentioned in paragraph (a) at the time of entry:

Provided that if the duty in question has after such entry under rebate been increased the extent of such rebate shall be deemed to be —

- (i) the difference between the duty actually paid on entry for home consumption and such increased duty; or
 - (ii) such increased duty if no duty was paid on entry for home consumption.”;
- (b) by substituting for the words preceding the proviso to paragraph (b) of subsection (6) the following new words —
“Any person to whom any distillate fuel or residual fuel oil has been supplied from stocks which have been entered under rebate of duty at a price which has been reduced to the extent of such rebate for a purpose stated in the item under which such distillate fuel or residual fuel oil was so entered, and who applies such distillate fuel or residual fuel oil or any portion thereof for any other purpose, shall be guilty of an offence and shall, notwithstanding the provisions of paragraph (a), be liable for the duty to the extent of the rebate allowed on entry for home consumption of such distillate fuel or residual fuel oil on the full quantity of the distillate fuel or residual fuel oil so supplied to him or on such portion thereof as the Director may in his discretion determine:”;
- and
- (c) by inserting immediately after subsection (15) thereof the following new subsection —
“(15A) (a) The Minister of Commerce and Industry or any officer in his Ministry designated by him may, at any time after a permit by virtue of which imported goods may, in terms of any item of Schedule No. 3, 4 or 6, be entered under rebate of duty has been refused by him but not later than two years after duty was paid on those goods, issue a permit authorising entry of those goods under rebate of duty in accordance with the provisions of the item concerned, if, with due regard to any facts which became known after such permit has been refused, he is satisfied that he would have issued such a permit if those facts were then known.
(b) For the purposes of section 41(3) —
 - (i) any bill of entry passed in relation to imported goods in respect of which a permit is issued under paragraph (a), shall be deemed to have been passed in error by reason of duty having been paid on goods intended for purposes or use under rebate of duty under section 79;
 - (ii) the goods in respect of which such a permit is issued, shall be deemed to have qualified at the time duty was paid on such goods in all respects for rebate; and
 - (iii) the duty paid on the imported goods concerned, shall be deemed to have been paid on the date on which the permit referred to in paragraph (a) was issued.”.

10. Section 84 of the principal Act is hereby amended —
- (a) by deleting the word “or” which appears at the end of paragraph (m) of subsection (1);
 - (b) by adding the word “or” at the end of paragraph (n) of the said subsection (1); and
 - (c) by adding the following new paragraph at the end of paragraph (n) —
“(o) fails to comply with any condition determined under section 111 (2) (a).”

Amendment of section 84 of principal Act

11. The principal Act is hereby amended by inserting immediately after the heading “PART XII General” which appears immediately after section 100 thereof, the following new section —

Insertion of new section 101 in principal Act

“Approval of container operators

101. The Director may, with the concurrence of the Permanent Secretary, Ministry of Works and Communications, subject to such conditions as the Director may generally or in respect of a particular case determine, approve, for operating containers in Botswana, any person providing international transportation of containerized goods.”

12. Every amendment of Schedules Nos 1, 2, 3, 4, 5 and 6 to the principal Act made under section 51(1) and (2), section 57 (1) and (2) or section 79 (16) of the principal Act between 3rd March, 1984 and 28th June, 1984, shall not lapse by virtue of the provisions of section 51 (6), 57 (8) or 79 (17) of the principal Act.

Validation of certain statutory instruments amending Schedules Nos. 1-6 of principal Act

13. (1) The substitution, by Statutory Instrument No. 34 of 1981, published on 1st May, 1981, of paragraph (1) of tariff heading No. 76.03 in item 315.07 of Schedule No. 3 to the principal Act, shall be deemed to have come into operation on 22nd June, 1979.

Commencement of certain statutory instruments

- (2) The substitution, by Statutory Instrument No. 126 of 1982, published on 29th October, 1982, of tariff headings Nos. 82.05.05.95 and 82.05.05.99 of Part 1 of Schedule No. 1 to the principal Act, shall be deemed to have come into operation on 26th September, 1980.

- (3) The substitution, by Statutory Instrument No. 11 of 1983, published on 28th January, 1983, of rebate code 12.00 to tariff heading No. 87.06 in item 317.06 of Schedule No. 3 to the principal Act, shall be deemed to have come into operation on 1st March, 1981.

PASSED by the National Assembly this 3rd day of April, 1985.

C.G. MOKOBI,
Clerk of the National Assembly.