

CUSTOMS TARIFF ACT

Act 59 of 1969 – 1 January 1970

ARRANGEMENT OF SECTIONS

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CUSTOMS TARIFF ACT

EDITORIAL NOTE: The word “Comptroller” has been deleted and replaced by the word “Director-General” wherever it appears, by section 27 (4) (a) of Act 33 of 2004 w.e.f. 1 July 2006.

1. Short title

This Act may be cited as the Customs Tariff Act.

2. Interpretation

(1) In this Act—

“Director-General” means the Director-General of the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act;

“Minister” means the Minister to whom responsibility for the subject of finance is assigned;

“public contractor” means any person who has contracted or may contract with the Government of Mauritius for the supply of any goods at fixed prices.

(2) Any reference in this Act to the entry of goods shall be construed as meaning that a bill of entry has been made and passed in respect of the goods in accordance with sections 34 to 36 of the Customs Act.

(3) All words and expressions in this Act shall have the same meaning as is assigned to them in the Customs Act.

[S. 2 amended by Act 47 of 1988; s. 9 (a) of Act 14 of 2005 w.e.f. 10 January 2007.]

3. Customs duties

(1) Subject to the Customs Act, and to any exemptions or rebates provided by or under this Act, there shall be raised, levied, collected and paid to the Director-General customs duty in respect of goods imported into or exported from Mauritius at the rates specified in the First Schedule.

(2) For the purpose of levying customs duty under subsection (1), the rates of customs duties specified in Part I of the First Schedule shall apply to all imported goods.

[S. 3 amended by Act 25 of 1994; s. 9 (b) of Act 14 of 2005 w.e.f. 10 January 2007.]

4. Variation of duty on certain goods

The Minister may, by regulations—

- (a) – (b) —
- (c) impose on any goods, duties in addition to those specified in the First Schedule, where it is shown to his satisfaction that similar goods are being, will be or are capable of being produced or manufactured in Mauritius;
- (d) suspend the operation of any additional duties imposed on goods under paragraph (c) until such time as similar goods are produced or manufactured in Mauritius in such quantity as to meet the demand for those goods;
- (e) lift the suspension made under paragraph (d) at such time and under such conditions as he thinks fit;
- (f) where, in his opinion, the economic welfare of Mauritius so requires, fix tariff quotas under the terms of which rates of duty applicable to a specified quality of any goods shall be lower than those which apply to those goods under Part I of the First Schedule.

[S. 4 amended by Act 25 of 1994; s. 9 (a) of Act 15 of 2006 w.e.f. 10 January 2007; s. 6 (a) of Act 26 of 2012 w.e.f. 22 December 2012.]

5. When duty and taxes to be brought to account

(1) This section shall apply where any goods, on which the whole or part of—

- (a) the duty under Part II or Part IIA of the First Schedule has been exempted;
- (b) the excise duty under Part IA of the First Schedule to the Excise Act has been exempted; or
- (c) the taxes under the Ninth Schedule to the Value Added Tax Act or under any other enactment have been exempted,

and before the expiry of 3 years, in the case where the exemption is once every 3 years, or in any other case, before the expiry of 4 years from the date of the exemption—

- (i) the goods are sold or transferred;

- (ii) the goods are put to any use or applied to any object, other than that in respect of which the exemption was granted; or
- (iii) there has been a breach of any of the conditions attached to the exemption.

(2) The importer of the goods or any person who intends to sell, transfer, use or apply the goods, other than those in respect of which the exemption was granted, or any person who may acquire or come into possession of the goods as a result of the sale or transfer, use or application, shall forthwith notify the Director-General of the fact, with such particulars as the Director-General may require, and, subject to subsection (3), pay the duty, excise duty and taxes in accordance with subsection (2A).

(2A) (a) Where any goods are sold or transferred before the expiry of the 3-year or 4-year period referred to in subsection (1) without breach of the notification referred to in subsection (2) or of any of the other conditions attached to the exemption, the duty, excise duty and taxes shall be computed proportionately by reference to any time remaining due out of the 3-year or 4-year period, as the case may be.

(aa) Notwithstanding subsections (1), (2) and (2A) (a), in the case of a motor vehicle or motorcycle purchased by an officer, or a beneficiary, in accordance with his entitlement, and transferred to his succession on his death, no duty, excise duty and taxes shall be claimed provided that the motor vehicle or motorcycle is not sold, transferred or disposed of within the time remaining due out of the 3-year period or 4-year period, as the case may be.

(b) Subject to paragraph (a), where any goods to which subsection (1) applies—

- (i) are sold or transferred and there has been a breach of the notification referred to in subsection (2) or of any of the other conditions attached to the exemption; or
- (ii) are put to any use or applied to any object, other than that in respect of which the exemption was granted,

the total amount of duty, excise duty and taxes which would have been payable, but for the exemption, shall become due and payable, together with a penalty not exceeding 50 per cent of the amount due and interest at the rate of 0.5 per cent per month or part of the month on the amount due from the time the goods have been exempted to the date of payment.

(c) The Director-General shall compute the amount payable in accordance with paragraph (a) or (b) and issue, by registered post, to the person liable to pay the amount, a notice showing how the amount has been arrived at and the date by which the amount should be paid.

(d) Where a person is dissatisfied with a notice under paragraph (c), the person may, within 28 days of the date of the notice, object to the notice in such form as the Director-General may approve and send the form duly filled in to the Director-General by registered post.

(e) Where a person makes an objection under paragraph (d), he shall specify in the form the detailed grounds of the objection.

(f) Where it is proved to the satisfaction of the Director-General that, due to illness or other reasonable cause, a person has been prevented from making an objection within the time limit specified in paragraph (d), the Director-General may consider the objection.

(fa) Where the Director-General refuses to consider an objection made after the time limit specified in paragraph (d), he shall, within 28 days of the date of receipt of the letter of objection, give notice of the refusal to the person.

(g) Any objection under this subsection shall be dealt with independently by an objection directorate set up by the Director-General for that purpose.

(h) The burden of proving that the notice of the Director-General is incorrect, or what the notice should be, shall lie on the person.

(2B) (a) The objection directorate referred to in subsection (2A) (g) shall consider an objection under subsection (2A) (d) or (f) and may—

- (i) review the notice;
- (ii) disallow or allow it in whole or in part; and
- (iii) where appropriate, amend the notice to conform with its determination.

(b) The Director-General shall, within 4 months of the date of receipt of the objection under subsection (2A) (d), give notice of the determination to the person and shall, at the same time, claim any duty, excise duty or taxes payable together with penalty and interest.

(ba) Where the objection is not determined within 4 months under paragraph (b), it shall be considered to have been allowed by the Director-General.

(c) Where a person is aggrieved by a determination under paragraph (b) or a decision under subsection (2A) (fa), he may, within 28 days of the date of the determination or decision, as the case may be, lodge written representations with the Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act.

(d) Where, in the notice of determination under paragraph (b), the amount of duty, excise duty or taxes, penalty and interest is claimed in that notice, such amount excluding penalty and interest shall, notwithstanding paragraph (c), be paid by the person not later than 28 days of the date of the notice.

(3) (a) Where any goods to which subsection (1) applies have been damaged or rendered unserviceable, the Director-General may, at the option of the person liable to duty or excise duty, proportionately assess the duty or excise duty or part thereof and taxes which are payable, or require the goods to be destroyed.

(b) Where goods referred to in paragraph (a) are destroyed, and any waste or scrap is put to any use in Mauritius, the amount of duty, excise duty or taxes payable shall be assessed as if the goods had been imported in that state.

(3A) Where the National Transport Authority revokes the licence of a taxi owner-driver who has benefited from an exemption of duty and excise duty in respect of his motorcar within a period of 4 years of its importation, in circumstances which would render the taxi-owner driver not eligible to the exemption, he shall pay the duty, excise duty and taxes which would have been payable but for the exemption.

(3B) (a) Without prejudice to section 151 of the Customs Act and section 34 of the Excise Act, where duty, excise duty or taxes on any goods have been exempted and there has been a breach of any condition attached to the exemption, the Director-General may detain the goods and issue a notice showing how the amount has been arrived at and the date by which the amount should be paid.

(b) Where goods are detained pursuant to paragraph (a), the Director-General shall—

- (i) where payment is effected within 28 days of the date of the notice under paragraph (a), release the goods; or
- (ii) where payment is not effected within the time limit referred to in subparagraph (i), seize the goods.

(4) Any person who fails to comply with subsection (1) shall commit an offence and shall, on conviction, be liable to a fine equivalent to 3 times the duty, excise duty or taxes underpaid on the goods or 50,000 rupees, whichever is the higher, and any goods which are the subject matter of the offence shall be liable to forfeiture.

(5) The prosecution of an offence under any section of this Act specified in the Fourth Schedule to the Mauritius Revenue Authority Act shall take place, at the discretion of the Director of Public Prosecutions, before a Judge sitting without a jury or the Intermediate Court.

(6) (a) Where any motor vehicle or motorcycle imported by a returning citizen is not used by him by reason of his having to resettle overseas within the 4-year exemption period, as a result of being unable to settle in Mauritius or for any professional or other unexpected reason, the motor vehicle or motorcycle shall be taken, for the purpose of subsection (1) (ii), not to have been put to use other than that in respect of which the exemption was granted.

(b) Paragraph (a) shall apply to every returning citizen whose case has not been determined by the Director-General as at 1 January 2013.

[S. 5 amended by Act 25 of 1994; s. 8 (3) of Act 17 of 2003 w.e.f. 24 November 2004; s. 6 of Act 18 of 2003 w.e.f. 21 July 2003; s. 9 (b) of Act 15 of 2006 w.e.f. 1 July 2006 and 7 August 2006; s. 27 (4) (b) of Act 33 of 2004 w.e.f. 1 July 2006; s. 7 of Act 18 of 2008 w.e.f. 19 July 2008; s. 6 (b) of Act 26 of 2012 w.e.f. 1 January 2013; s. 5 of Act 26 of 2013 w.e.f. 21 December 2013; s. 13 of Act 9 of 2015 w.e.f. 14 May 2015; s. 12 (a) of Act 18 of 2016 w.e.f. 29 June 2016.]

6. —

7. Rate of exchange for ad valorem duties

For the purpose of levying the ad valorem duty on imported goods, the rate of exchange with regard to the value of the goods, if that value is expressed in a currency other than that of the legal currency of Mauritius, shall be determined by the Director-General by notice published in the Gazette.

[S. 7 amended by s. 9 (c) of Act 15 of 2006 w.e.f. 7 August 2006.]

8. Where alternative duties prescribed

Where an ad valorem duty and an alternative specific duty are prescribed in respect of any item specified in the First Schedule, the higher of the duties so prescribed shall be levied.

9. —

[S. 9 amended by Act 25 of 1994; repealed by s. 9 (d) of Act 15 of 2006 w.e.f. 7 August 2006.]

10. Classification of goods

For the purpose of levying customs duties under this Act, goods shall be classified in such manner as the Minister may prescribe.

[S. 10 amended by Act 25 of 1994.]

11. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) The Minister may, in particular, make regulations—

- (a) for the proof to be required that any goods imported in Mauritius are entitled to admission at a preferential rate of customs duty and for prescribing the forms to be used in relation to goods admitted at that rate;
- (b) for the grant of a drawback or exemption of the whole or part of any duty paid or payable in respect of materials used in the manufacture or processing of goods within Mauritius when such goods are exported from Mauritius in the ordinary course of trade except goods—
 - (i) which were originally sold for consumption within Mauritius;
 - (ii) which were exported from Mauritius more than 2 years after the date on which the duty on the materials used in the manufacture or processing thereof were paid;

- (c) for a rebate or refund of the whole or part of the duty on any raw or semi-manufactured materials or other industrial requisites for the use in the manufacture, processing or refining of any goods within Mauritius.

(3) Regulations made under subsection (1) may provide that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and that the goods, if any, forming the subject matter of the offence may be forfeited.

[S. 11 amended by s. 6 (c) of Act 26 of 2012 w.e.f. 22 December 2012.]

12. Saving clause

(1) This Act shall not in any way affect the operation of section 44 of the Mauritius Cane Industry Authority Act.

(2) —

[S. 12 amended by s. 9 (e) of Act 15 of 2006 w.e.f. 7 August 2006.]

13. —

13A. Extension of Act

Where, in any enactment made before or after October 1983, it is provided that, notwithstanding any other enactment, a statutory corporation shall be exempt from payment of any duty, that provision shall not be construed as an exemption from the payment of customs duty leviable under this Act.

[S. 13A inserted by s. 5 (a) of Act 35 of 1983 w.e.f. 5 November 1983.]

14. Exemption from duty

(1) The goods specified in Part II of the First Schedule shall, on fulfilment of any condition laid down, including the production of certificates, under the terms of a particular exemption, be exempted from the payment of customs duties.

(2) The goods described in Part IIA of the First Schedule shall, on fulfilment of any condition laid down under the terms of exemption, be subject to the payment of customs duty to the extent specified in respect of such goods.

(3) —

[S. 14 amended by s. 5 (b) of Act 35 of 1983 w.e.f. 5 November 1983; s. 9 (f) of Act 15 of 2006 w.e.f. 7 August 2006.]

15. Amendment of Schedules

The Minister may, by regulations, amend the Schedules.

[S. 15 reprinted by Reprint 3 of 1983; amended by s. 3 of Act 8 of 1984 w.e.f. 31 March 1983.]

FIRST SCHEDULE/SECOND SCHEDULE

(1) These Schedules have not been reproduced as they are subject to frequent changes and are likely to be substantially out of date by the time of publication of this volume.

(2) The First Schedule was as printed in the Schedule of the Customs Tariff (Classification of Goods) Regulations 1988 (GN 8 of 1988) and is now as set out in the First Schedule to Act 25 of 1994 which came into operation on 27 July 1994. It has since been amended by GN 137 of 1994 w.e.f. 1 August 1994; GN 171 of 1994 w.e.f. 4 October 1994; GN 55 of 1995 w.e.f. 2 May 1995; GN 99 of 1995 w.e.f. 15 July 1995; GN 189 of 1995 w.e.f. 1 December 1995; s. 5 of Act 13 of 1996 w.e.f. 1 June 1996; GN 132 of 1996 w.e.f. 22 December 1996; GN 10 of 1997 w.e.f. 1 February 1997; GN 28 of 1997 w.e.f. 8 March 1997; GN 55 of 1997 w.e.f. 19 May 1997; 56 of 1997 w.e.f. 7 June 1997; GN 62 of 1997 w.e.f. 11 June 1997; GN 137 of 1997 w.e.f. 5 September 1996; GN 169 of 1997 w.e.f. 13 November 1997; GN 67 of 1998 w.e.f. 9 June 1998; GN 147 of 1998 w.e.f. 12 September 1998; GN 171 of 1998 w.e.f. 14 November 1998; GN 22 of 1999 w.e.f. 1 February 1998; GN 65 of 1999 w.e.f. 15 June 1999; GN 83 of 1999 w.e.f. 10 July 1999; GN 56 of 2000 w.e.f. 22 April 2000; GN 80 of 2000 (amended by GN 45 of 2005) w.e.f. 15 June 2000; s. 5 of Act 23 of 2001 w.e.f. 12 June 2001; GN 56 of 2001 w.e.f. 12 June 2001; s. 6 of Act 20 of 2002 w.e.f. 15 June 2002; GN 77 of 2002 w.e.f. 15 June 2002; GN 10 of 2003 w.e.f. 15 February 2003; GN 23 of 2003 w.e.f. 22 February 2003; GN 74 of 2003 w.e.f. 10 June 2003; GN 99 of 2003 w.e.f. 19 July 2003; GN 105 of 2003 w.e.f. 23 July 2003; GN 189 of 2003 w.e.f. 4 October 2003; GN 2 of 2004 w.e.f. 1 January 2004; GN 77 of 2004 w.e.f. 12 June 2004; GN 87 of 2004 w.e.f. 1 July 2004; s. 6 of Act 28 of 2004 w.e.f. 12 June 2004; GN 45 of 2005 w.e.f. 5 April 2005; GN 112 of 2005 w.e.f. 11 July 2005; GN 158 of 2005 w.e.f. 31 August 2005; GN 58 of 2006 w.e.f. 10 June 2006; GN 111 of 2006 w.e.f. 21 August 2006; GN 210 of 2006 w.e.f. 11 November 2006; GN 251 of 2006 w.e.f. 1 January 2007; GN 25 of 2007 w.e.f. 1 January 2007 and 24 February 2007; s. 6 of Act 28 of 2004 w.e.f. 12 June 2004; GN 47 of 2007 w.e.f. 7 April 2007; GN 59 of 2007 w.e.f. 27 April 2007; GN 92 of 2007 w.e.f. 16 June 2007; GN 124 of 2007 w.e.f. 6 September 2007; GN 206 of 2007 w.e.f. 30 November 2007; GN 227 of 2007 w.e.f. 31 December 2007 and 1 January 2008; GN 90 of 2008 w.e.f. 7 June 2008; GN 106 of 2008 w.e.f. 1 July 2008; GN 270 of 2008 w.e.f. 30 November 2008; GN 9 of 2009 w.e.f. 1 January 2009; GN 76 of 2009 w.e.f. 1 July 2009; GN 149 of 2009 w.e.f. 19 November 2009; GN 208 of 2010 w.e.f. 3 November 2010; GN 235 of 2010 w.e.f. 20 November 2010; GN 134 of 2011 w.e.f. 9 July 2011; GN 138 of 2011 w.e.f. 13 July 2011; GN 189 of 2011 w.e.f. 5 November 2011; GN 243 of 2011 w.e.f. 1 January 2012; GN 5 of 2013 w.e.f. 1 January 2013; GN 217 of 2013 w.e.f. 1 June 2013; GN 157 of 2013 w.e.f. 7 June 2013; GN 238 of 2013 w.e.f. 1 October 2013; GN 266 of 2013 w.e.f. 9 November 2013; GN 324 of 2013 w.e.f. 17 June 2013, 18 October 2013 and 1 January 2014; GN 154 of 2014 w.e.f. 9 May 2014 and 9 August 2014; GN 174 of 2014 w.e.f. 15 September 2014; GN 183 of 2014 w.e.f. 20 September 2014; GN 12 of 2015 w.e.f. 1 January 2015; GN 124 of 2015 w.e.f. 1 July 2015 and GN 138 of 2016 w.e.f. 1 July 2016; s. 12 (b) of Act 18 of 2016 w.e.f. 30 July 2016; GN 164 of 2016 w.e.f. 30 July 2016; GN 261 of 2016 w.e.f. 15 October 2015; 30 July 2016; 1 November 2016 and 17 December 2016; GN 281 of 2016 w.e.f. 1 January 2017.]

(3) The Second Schedule was as printed in the Schedule of the Customs Tariff (Classification of Goods) Regulations 1988 (GN 8 of 1988) and is now as set out in the Second Schedule to Act 25 of 1994 which came into operation on 27 July 1994. It has since been amended by GN 99 of 1995 and repealed and replaced by s. 9 (c) of Act 14 of 2005; amended by GN 208 of 2010 w.e.f. 3 November 2008.
