

## **CHAPTER 163**

### **THE EXTERNALTRADE ACT**

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## EXTERNAL TRADE

(10th December, 1958.)

16/1958.  
12/1970.  
31/1986.

1. This Act may be cited as the External Trade Act. Short title.
2. In this Act— Interpretation.
  - "Comptroller of Customs" means the officer for the time being performing the duties of Comptroller of Customs under the Customs Duties Act;
  - "export restricted goods" means any goods in respect of which the Minister has made an order either under paragraph (a) of subsection (1) of section 5 prohibiting their export from Antigua and Barbuda without a licence or under paragraph (b) of subsection (1) of section 5 limiting their export from Antigua and Barbuda;
  - "goods" includes all kinds of moveable or personal property including animals;
  - "import prohibition Order" means an Order made by the Minister under section 3 (1)(b) prohibiting the importation of goods from a particular country;
  - "import restricted goods" means any goods in respect of which the Minister has made an order either under paragraph (a) of subsection (1) of section 3 prohibiting their import from any country or place without a licence or under paragraph (b) of subsection (1) of section 3 limiting their import;

"prohibited goods" means goods which have been brought into Antigua and Barbuda in contravention of an Order made under section 3 (1) (b);

"restricted goods" means goods which have been brought into Antigua and Barbuda in contravention of an Order made under section 3 (1) (a), or in contravention of a condition of a licence issued under this Act.

**Restriction on certain imports.**

**3.** (1) The Minister may from time to time by order published in the *Gazette* and in a newspaper circulating in Antigua and Barbuda—

(a) prohibit the import of any class of goods from or originating in any country or place without a licence granted under the provisions of section 4;

(b) prohibit absolutely or limit the importation of any goods if in his opinion such action is in the interest of Antigua and Barbuda or of any other part of Her Majesty's dominions and may for the same reason make by order any such imports subject to such conditions as he may think fit.

(2) Every such order shall take effect as from the date of its publication in the *Gazette*.

(3) Where in any case any import licence has been granted in respect of any goods the subject of any order limiting their importation made under the provisions of paragraph (b) of subsection (1) such licence shall be deemed to be cancelled from the date of the publication of the order in the *Gazette* and the Comptroller of Customs shall only issue fresh licences which conform with the provisions of any such order.

**Licence to import.**

**4.** (1) Subject to the provisions of subsections (2) and (3) the Comptroller of Customs may grant a licence for the import of any import restricted goods.

(2) No licence shall be granted by the Comptroller of Customs for the import of any import restricted goods if in his opinion the import of such goods would, or would be

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likely to, prejudice any trade agreement or arrangement in respect of external or internal trade or currency entered into or approved of by or on behalf of the Government.

(3) The Comptroller of Customs shall make any licence granted under the provisions of subsection (2) subject to such conditions as he shall think necessary in order to ensure that the import of the goods in respect of which the licence is to be issued is in conformity with any agreement or arrangement in respect of internal or external trade or currency entered into or approved by or on behalf of the Government. In imposing such conditions the Comptroller of Customs shall have regard not only to the import of the goods in respect of which the licence is required but shall take into consideration the necessity, if any, for controlling the import of goods generally or the import of any particular type of goods and by such conditions shall ensure the equitable distribution of import licences.

(4) Notwithstanding the provisions of section 3 the following classes of goods may be imported without a licence whether they are import restricted goods or not—

- (a) goods in transit or for transhipment;
- (b) commercial travellers samples;
- (c) articles of British origin which have been imported into Antigua and Barbuda, subsequently exported therefrom and thereafter returned to Antigua and Barbuda;
- (d) baggage and private effects;
- (e) articles shown to be *bona fide* unsolicited gifts and not for resale;
- (f) currency notes or coins;
- (g) goods imported by the Government.

5. (1) The Minister may from time to time by Order published in the *Gazette* and in a newspaper circulating in Antigua and Barbuda—

**Restriction on the export of certain goods.**

- (a) prohibit the export to any country or place of any class of goods without a licence granted under the provisions of section 6;

(b) prohibit absolutely or limit the exportation from Antigua and Barbuda of any goods to any country if in his opinion such action is in the interests of Antigua and Barbuda or of any part of Her Majesty's dominions and may for the same reason make by Order any such exports subject to such conditions as he may think fit.

(2) Every such order shall take effect as from the date of its publication in the *Gazette*.

(3) Where in any case any export licence has been granted in respect of any goods the subject of any Order limiting their exportation made under the provisions of paragraph (b) of subsection (1) such licence shall be deemed to be cancelled from the date of the publication of the Order in the *Gazette* and the Comptroller of Customs shall only issue fresh licences which conform with the provisions of any such order.

Licence to  
export.

**6.** (1) Subject to the provisions of subsection (2) the Comptroller of Customs may grant a licence for the export of any export restricted goods.

(2) No licence shall be granted by the Comptroller of Customs for the export of any export restricted goods if in his opinion the export of any such goods would, or would be likely to, prejudice any trade agreement or arrangement in respect of internal or external trade or currency entered into or approved by or on behalf of the Government.

Cancellation of  
licences etc.

**7.** (1) The Comptroller of Customs may cancel any import or export licence if it appears to him necessary in order not to prejudice any agreement or arrangement relating to trade or currency entered into or approved by or on behalf of the Government subsequent to the granting of the licence.

(2) The Comptroller of Customs may waive any condition in any import licence if in his opinion the terms of such condition are no longer necessary.

Application  
forms.

**8.** (1) All applications for licences under this Act shall be made in such manner as the Comptroller of Customs shall direct.

(2) All forms for use under the provisions of this Act shall be in such form as the Comptroller of Customs shall direct.

**9.** (1) An appeal shall lie to the Minister against any decision made by the Comptroller of Customs refusing or cancelling any licence under this Act. Appeals.

(2) Any such appeal shall be made within sixty days of the decision being communicated to the party aggrieved.

**10.** (1) A person who imports or exports any goods without a licence as required by this Act, or in contravention of any condition imposed by a licence under this Act is guilty of an offence and is liable Offences and penalties.

(a) on summary conviction, to a fine of ten thousand dollars and imprisonment for one year for a first offence and for every subsequent offence to a fine of twenty-five thousand dollars and imprisonment for two years;

(b) on conviction on indictment, to a fine of one hundred thousand dollars and imprisonment for five years.

(2) A person who imports into Antigua and Barbuda goods

(a) which contain labels that have been tampered with for the purpose of concealing their country of origin; or

(b) in respect of which a device has been used for the purpose of concealing the country of origin is guilty of an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for one year.

(3) A person who imports into Antigua and Barbuda goods originating from or produced by a country named in an import prohibition Order is guilty of an offence and is liable

(a) on summary conviction to a fine of one hundred thousand dollars and imprisonment for two years and

in addition to a penalty of five times the value of the goods;

(b) on conviction on indictment to a fine of two hundred and fifty thousand dollars and imprisonment for five years and in addition to a penalty of ten times the value of the goods.

(4) For the purpose of subsection (3), goods are deemed to have originated from or to have been produced in a country named in an import prohibition order where

(a) it is shown on the face of the documents relating to the goods that they were produced in that country;

(b) the labels on the goods show that they were produced in that country;

(c) any box, packaging, wrapping, canning or other device used in distributing the goods is produced in that country;

(d) the goods originated from or were produced in that country, but were repackaged in another country or place before being imported into Antigua and Barbuda.

(5) A person who exports or re-exports goods to a country named in an Order made under section 5 (1) (6) prohibiting the exportation of goods from Antigua and Barbuda to that country is guilty of an offence and is liable

(a) on summary conviction to a fine of one hundred thousand dollars and imprisonment for two years;

(6) on conviction on indictment to a fine of two hundred and fifty thousand dollars and imprisonment for five years.

Liability of  
officers of  
corporate bodies.

**11.** Where a person charged with an offence against any of the provisions of this Act is a body corporate every person who, at the time of the commission of the offence, was a director or officer of the body corporate may be charged jointly in the same proceedings with such body corporate, and where the body corporate is convicted of the offence, every such director or officer shall be deemed to be guilty of that offence.

12. (1) Where a corporation is charged with an offence against this Act such corporation may appear and plead to the charge or indictment, by its representative, by entering a plea in writing; and, if either the corporation does not appear by representative, or though it does so appear, fails to enter any plea, the court shall cause a plea of not guilty to be recorded and the trial shall proceed accordingly.

Appearance and  
plea by  
corporation.

(2) Where a corporation is charged whether alone or jointly with some other person, with an indictable offence punishable under this Act, the magistrate may, if he is of the opinion that the evidence offered on the part of the prosecution is sufficient to put the accused corporation upon trial, commit the corporation for trial.

(3) Any indictment filed against a corporation or other document addressed to a corporation may be served upon the corporation by leaving it at, or sending it by post to, the registered office of the corporation, or, if there be no such office in Antigua and Barbuda, by leaving it at, or sending it by post to, the corporation at any place in Antigua and Barbuda at which it trades or conducts business.

(4) In this section the expression "representative" in relation to a corporation means a person duly appointed by the corporation to represent it for the purpose of doing any act or thing which the representative of a corporation is by this section authorized to do, but a person so appointed shall not, by virtue only of being so appointed, be qualified to act on behalf of the corporation before any court for any other purpose.

(5) A representative for the purposes of this section need not be appointed under the seal of the corporation, and a statement in writing purporting to be signed by a managing director of the corporation, or by any person (by whatever name called) having, or being one of the persons having, the management of the affairs of the corporation, to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this section shall be admissible without further proof as *prima facie* evidence that that person has been so appointed.



**Liability of employees.**

**13.** Every person shall be liable for the acts or omissions of any partner, agent or servant in so far as they relate to the business of such person, and if such partner, agent or servant commits any act or suffers any omission which is an offence against any of the provisions of this Act, or which would be an offence if made or committed by such person, such person and his partner, agent or servant shall be jointly and severally liable to the penalties provided by this Act.

**Power of Comptroller of Customs to search and seize.**

**14.** (1) The Comptroller of Customs may enter any building or place to search for goods which he believes have been brought into Antigua and Barbuda in contravention of any provision of this Act and may seize any such goods that are found there.

(2) The Comptroller of Customs shall secure all goods seized under subsection (1) in a pound or warehouse provided for the purpose or where no pound or warehouse is available, in some suitable place and shall thereafter deal with such goods in accordance with the provisions of this Act.

**Sale of perishable goods.**

**15.** (1) The Comptroller of Customs may direct that goods of a perishable nature shall be sold by public auction and the proceeds of sale dealt with in accordance with this Act.

(2) Where after making all reasonable efforts the Comptroller of Customs is unable to sell perishable goods he may dispose of them in such manner as he thinks fit.

**Review of seizure.**

**16.** The owner or importer of goods seized under this Act shall within fourteen days make a claim to the Comptroller of Customs to show why the goods should not be forfeited, and the onus of showing that the goods were not brought into Antigua and Barbuda in contravention of this Act shall be on the owner or importer.

**Restoration by Comptroller of Customs.**

**17.** After considering all the evidence, the Comptroller of Customs shall

(a) if it appears that the goods were not brought into Antigua and Barbuda in contravention of this Act

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- (i) restore the goods to the owner or importer, or
  - (ii) turn over the proceeds of sale to the owner or importer where the goods were perishable and were sold, or
- (b) within seven days refer the matter to a magistrate.

**18.** Where no claim is made to the Comptroller of Customs within fourteen days of seizure, the goods shall be forfeited and

Forfeiture by Comptroller of customs.

(a) in the case of prohibited goods shall be destroyed, or

(b) in the case of restricted goods shall be sold by public auction and the proceeds of sale paid into the Consolidated Fund.

**19.** Where in proceedings under this Act, the court finds that goods seized by the Comptroller of Customs were not brought into Antigua and Barbuda in contravention of the Act, the court shall order that the goods be restored to the owner or importer, or where the goods were of a perishable nature and were sold, the court shall order that the proceeds of sale be turned over to the owner or importer.

Restoration of goods by court.

**20.** Where in proceedings under this Act the court finds that goods were brought into Antigua and Barbuda in contravention of the Act, in addition to any other penalty it imposes, the court shall

Forfeiture by court.

(a) where the goods were perishable and were sold, order that the proceeds of sale be paid into the Consolidated Fund;

(b) order the forfeiture of the goods, and

- (i) where the goods are prohibited goods, shall order that they be destroyed;
- (ii) where the goods are restricted goods shall order that they be sold by public auction and the proceeds of sale paid into the Consolidated Fund;

(c) where the offence consists of breach of a condition in a licence, order that the licence shall be revoked and may direct the Comptroller of Customs to issue no further licences to that person in respect of the same goods for a period not exceeding two years.

**Obstruction of authorized officer.**

**21.** Any person who obstructs, assaults or threatens with violence, any authorized officer in the exercise of the powers conferred on him under this Act, is guilty of an offence and is liable on summary conviction to a fine of five thousand dollars and to imprisonment for one year.

**Immunity of authorized officer.**

**22.** No action shall be brought against the Crown, the Comptroller of Customs or any officer authorized by him in respect of any thing done or omitted to be done in good faith in the exercise of the powers and duties exercisable under this Act.

**Nothing invalidated by no provision for appointment or defect in appointment or procedure.**

**23.** Nothing done in good faith by the Collector of Customs or by any other person before the first day of February 1970, in pursuance of the duties imposed by this Act or any subsidiary legislation on the Supply Officer shall be deemed invalidated merely by reason—

- (a) that there was no provision for his appointment;
- or
- (b) of any defect in his appointment or procedure.