

OBJECTS AND REASONS

This Bill seeks to amend the *Customs Act*, Cap. 66 to authorise the Comptroller to undertake post-clearance audits.

Arrangement of Sections

1. Short title
2. Insertion of Part VA into Cap. 66
3. Repeal of section 199 of Cap. 66

BARBADOS

A Bill entitled

An Act to amend the *Customs Act*, Cap. 66 to authorise the Comptroller to undertake post-clearance audits.

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Customs (Amendment) Act, 2013*.

Insertion of Part VA into Cap. 66

2. *The Customs Act , Cap. 66 in this Act referred to as the principal Act is amended by inserting immediately after Part V the following as Part VA:*

**“PART VA
POST CLEARANCE AUDIT**

Post release control

180A.(1) The Comptroller or any person authorised by the Comptroller, after releasing the goods, may in order to ascertain the accuracy of the particulars contained in the declaration,

(a) inspect any documents and data relating to the operation in respect of the goods in question or to prior or subsequent commercial operations involving those goods; and

(b) examine the goods or take samples where it is possible to do so.

(2) The inspection referred to in subsection (1) may be carried out at the premises of

(a) the importer of the goods or his representative;

(b) any person directly or indirectly involved in the operation of the business; or

(c) any other person in possession of the documents and data referred to in subsection (1).

Power of exercising control

180B.(1) The Comptroller or any of his officers so authorised may, in order to comply with this Act, exercise control over goods

(a) imported into Barbados;

- (b) exported from Barbados; or
- (c) moved in the course of business within Barbados

as well as any books or documents relating to those goods, both in manual and electronic form.

(2) The Comptroller or any of his officers shall have the power to demand any information in respect of the goods, books or documents referred to in subsection (1) from any importer, exporter or representative.

Power to use appropriate scientific means for control purposes

180C.(1) An officer referred to in section 180B may, in verifying compliance with the provisions of this Act, use such scientific methods or other methods as are approved by the Comptroller.

(2) For the purpose of subsection (1), “scientific methods” means the use of any technical, chemical, biological, empirical or factual medium for gathering information by structured process.

Power to demand information

180D.(1) An officer authorised by the Comptroller may, in order to verify procedures and comply with the provisions of this Act, demand from any importer, exporter or representative within a reasonable time and at a specified place

- (a) any information; or
- (b) the production of any book or document in either manual or electronic format.

(2) An officer authorised under subsection (1) may demand the production of any books and documents from

- (a) a person mentioned in subsection (1); or
- (b) any other person he believes possess these books and documents.

- (3) Where a person referred to in subsection (2)(b) claims the right of attachment in respect of the books or documents produced by him, that production is done without the loss of the right of attachment.
- (4) The officer authorised under subsection (1) may make copies or take abstracts of any books or documents produced in accordance with subsections (1) and (2).
- (5) Where necessary, the officer authorised in accordance with subsection (1) may take a reasonable time and detain for a reasonable period any books or documents produced under subsection (1) or (2) and if requested, issue a receipt to the person who produced the books or documents.
- (6) When a right of attachment is claimed in respect of a book or document produced under subsection (2), the receiving of the books or documents under subsection (5) is not considered a violation of the right of attachment.
- (7) When any book or documents received by an officer authorised under subsection (1) is reasonably requested for the smooth operation of the person's business, the officer shall provide the importer, exporter or representative with a copy of the book or document within a reasonable time.
- (8) The Comptroller may require any government authority or other organisation to furnish him with information which may be necessary for the purposes of this Act.
- (9) An employee of a government authority or other organisation who has in his custody any book or document the examination of which may facilitate the application of the *Customs Act*, Cap. 66 shall permit the officer so authorised by the Comptroller to examine the book or document and make copies and take extracts of the book or document without the payment of a fee or charge.
- (10) An officer referred to in subsection (9) shall not disclose or provide to third parties any confidential data or information which comes to his knowledge during the performance of his duties except with the permission of the Minister.

(11) For the purpose of this section “right of attachment” means a legal claim to any property temporarily held to assist in the auditing of any declaration made to the Comptroller.

Power to enter and search premises

180E. An officer authorised by the Comptroller may, by day or by night, enter into and search any house, shop, cellar, warehouse, room or other place and inspect and search the premises as well as any goods, books and documents found therein, whether the books and documents are in manual or electronic format.

Power to search premises where goods liable to forfeiture are found

180F.(1) Where there are reasonable grounds to suspect that

- (a) any goods that are liable to forfeiture under this Act; or
- (b) any books or documents even in electronic format

which are related to the commission of an offence are kept or concealed in any house, shop, cellar, warehouse, room or other place, an officer authorised by the Comptroller may enter the premises by day or by night and examine, search for, detain and seize as liable to forfeiture or remove any goods or detain or seize any books or documents in electronic format.

(2) An officer referred to in subsection (1) shall in the case of resistance break open any door, chest, trunks and other packages and force and remove any other impediment or obstruction to such entry or seizure.”.

Repeal of section 199 of Cap. 66

3. *Section 199 of the principal Act is repealed.*

