

AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

BERMUDA AIRPORT (DUTY FREE SALES) AMENDMENT ACT 2011

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WHEREAS it is expedient to amend the Bermuda Airport (Duty Free Sales) Act 1997 to modify the licensing system for the operation of warehouses at the L. F. Wade International Airport to provide for the sale of duty free goods to arriving air passengers;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act may be cited as the Bermuda Airport (Duty Free Sales) Amendment Act 2011.

Amends section 1

2 Section 1 and the title of the Bermuda Airport (Duty Free Sales) Act 1997 (in this Act referred to as "the principal Act") is amended by deleting "Bermuda".

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Amends section 2

3 Section 2 of the principal Act is amended—

- (a) in the definition of “authorized person”, by deleting “Bermuda” and substituting “L. F. Wade International”;
- (b) by deleting the definition of “Bermuda Airport” and inserting the following definition in its proper alphabetical position—

“ “Airport” has the meaning assigned to “Bermuda Airport” in section 1 of the Civil Airports Act 1949;”;

- (c) in the definition of “Bermuda Air Terminal” by deleting “section 1 of the Civil Airports Act 1949” and substituting “regulation 2 of the Bermuda Air Terminal (Fees) Regulations 1952”;
- (d) in the definition of “purchaser”, by inserting the words “has just arrived in Bermuda or”, at the beginning of paragraph (b); and
- (e) by inserting the following definition in its proper alphabetical position—

“ “Collector” means the Collector of Customs; ”.

Amends section 3

4 Section 3(1) of the principal Act is repealed and the following subsection is substituted—

“(1) The classes of goods which may, in accordance with this Act, be received and—

- (a) sold free of duty; or
- (b) stored free of duty,

in regulated shops and airport duty free warehouses are those listed in the First Schedule and the goods shall be known as “scheduled goods”. ”.

Amends section 9

5 Section 9(c) of the principal Act is amended by deleting “Bermuda”.

Amends section 21

6 Section 21 of the principal Act is amended—

- (a) in the headnote by inserting “departing” next after “where”;
- (b) in subsection (1) by deleting “Where a flight is delayed and a” and substituting “Where a departing flight is delayed and a departing”.

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Substitutes section 35

7 Section 35 of the principal Act is repealed and the following section is substituted—

“Prohibition of storage of duty paid goods in airport duty free warehouse
35 Duty paid goods shall not be stored in an airport duty free warehouse.”.

Amends section 39

8 Section 39 of the principal Act is amended—

- (a) by deleting paragraph (d);
- (b) in paragraph (e) by deleting the full stop and substituting a semicolon; and
- (c) by inserting the following paragraphs next after paragraph (e)—

“(f) that the licensee sells scheduled goods from the warehouse, to arriving passengers only;

(g) that scheduled goods from the warehouse sold to arriving purchasers, shall be given to the purchasers in sealed packages in such manner as the Collector may direct.”.

Inserts section 41A

9 The principal Act is amended by inserting the following section next after section 41—

“Display of notices in airport duty free warehouses

41A Every licensee shall, at the regulated shop in respect of which his licence is granted, display his Airport Duty Free Warehouse Licence and notices indicating—

- (a) the restrictions in respect of the minimum age, if any, for the purchase of classes of scheduled goods; and
- (b) such other matters as may be specified in writing from time to time by the Minister.”.

Amends section 43

10 Section 43(2) of the principal Act is amended—

- (a) in paragraph (e) by inserting “and” next after the semicolon; and
- (b) by deleting paragraph (f).

Substitutes section 44

11 Section 44 of the principal Act is repealed and the following section is substituted—

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“Restriction of entry to warehouse

44 (1) Subject to subsection (2), a licensee shall not admit any person into his airport duty free warehouse except a proper officer, an authorised person, or a person who has just arrived in Bermuda by air.

(2) A person who has just arrived in Bermuda by air, shall be admitted into an airport duty free warehouse only at times, a proper officer, upon notification to the licensee, permits.”.

Amends section 47

12 Section 47 of the principal Act is amended by inserting the following subsection next after subsection (2)—

“(2A) A licensee who fails to comply with any condition imposed in a licence under section 39, shall pay a penalty of the level 4 amount.”.

Amends Second Schedule

13 The Second Schedule is amended—

- (a) by intituling the existing Second Schedule as “Part 1”;
- (b) by deleting paragraph 2 and substituting the following paragraph—

“2 Sections 14, 16, 24 and 28 of the Act which relate to—

- (a) the entry of goods;
- (b) ascertainment of the value of goods for the purposes of duty; and
- (c) quarterly tables of imports and exports,

shall apply.”;

- (c) in paragraph 3—
 - (i) in subparagraph (6) by deleting “and 63”; and
 - (ii) in subparagraph (8)(a) by inserting “or an airport duty free warehouse”, next after “shop”;
- (d) by deleting paragraph 5 and substituting the following paragraph—

“5 The following provisions of the Act shall apply—

- (a) sections 96 to 98A, 99A to 103 and the First Schedule, which relate to search and seizure;
- (b) sections 104 to 108, which relate to claims; and
- (c) section 109, which relates to writs of assistance.”; and
- (e) by inserting the following Part next after Part 1—

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“PART 2

APPLICATION OF PROVISIONS OF THE CUSTOMS TARIFF ACT 1970

1 Section 5A and Heading 98.02 of the Customs Tariff Act 1970 shall apply to scheduled goods removed from an airport duty free warehouse by an arriving purchaser, as if such goods were accompanied personal goods imported by such person.

2 Section 7(1)(a) of the Customs Tariff Act 1970 shall apply to both the licensee and the purchaser.”.

Consequential Amendments

14 (1) The Government Fees Regulations 1976 are amended in Head 4—

(a) by deleting “Bermuda”; and

(b) in paragraph (2)—

(i) by deleting “\$6,558” and substituting “\$6871”; and

(ii) by deleting “\$13,116” and substituting “\$13,411”.

(2) The Revenue Act 1898 is amended by deleting section 84A(5)(b) and substituting the following—

“(b) Airport (Duty Free Sales) Act 1997 (“A(DFS)A”);”.

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EXPLANATORY MEMORANDUM

The Bill for consideration is the Bermuda Airport (Duty Free Sales) Amendment Bill 2011. This Bill amends the Bermuda Airport (Duty Free Sales) Act 1997 (hereafter referred to as “the principal Act”).

Clause 1 is the citation.

Clause 2 amends section 1 of the principal Act to delete the word “Bermuda”. This is to facilitate the identification and location of the principal Act within Bermuda legislation under “airport duty free sales”. The subject matter of the principal Act is airport duty free sales.

Clause 3 makes various amendments to section 2 of the principal Act in pursuance of the amendment in clause 2 and to change the definition of “purchaser” to include an arriving passenger.

Clause 4 amends section 3(1) of the principal Act to cater for the duty free storage and sale of scheduled goods in regulated shops and airport duty free warehouses.

Clause 5 amends section 9(c) of the principal Act to delete “Bermuda”. This is in pursuance of the amendment in clause 2.

Clause 6 amends section 21 of the principal Act to ensure that, that provision caters for the airport duty free shops for departing passengers, to distinguish them from airport duty free warehouses for arriving passengers.

Clause 7 repeals and substitutes section 35 of the principal Act. Under the new section 35, duty paid goods shall not be stored in an airport duty free warehouse.

Clause 8 amends section 39 of the principal Act to permit a licensee under the Act to sell scheduled goods to arriving passengers and makes it mandatory that any scheduled goods sold to arriving passengers are given to those passengers, in sealed packages.

Clause 9 inserts a new section 41A into the principal Act to ensure that licensees under the Act display their Airport Duty Free Warehouse Licence and notices on restrictions in respect of the sale of certain classes of scheduled goods, in their regulated shops.

Clause 10 amends section 43(2) of the principal Act by deleting paragraph (f). This is because the sale of goods other than scheduled goods shall not be allowed in duty free warehouses.

Clause 11 repeals and substitutes a new section 44 into the principal Act to add arriving passengers to the persons authorised to enter a duty free warehouse.

Clause 12 amends section 47 of the principal Act to insert a civil penalty for breach of section 39 of the principal Act.

Clause 13 makes various amendments to the Second Schedule to the principal Act in respect of the application of the Revenue Act 1898 and the Customs Tariff Act 1970.

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Clause 14 makes amendments to the Government Fees Regulations 1976 to change certain fees charged and makes an editorial change to section 84A(5)(b) of the Revenue Act 1898.