



BERMUDA

CUSTOMS DEPARTMENT ACT 1952
[formerly entitled the Colonial Treasury (Customs Division) Act 1952]

1952 : 48

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[preamble and words of enactment omitted]

Interpretation

- 1 In this Act, unless the context otherwise requires—
- “Bermuda Airport” has the meaning assigned to it in section 1 of the Civil Airports Act 1949;
- “the Department” means the Customs Department established under section 2;
- “the Minister” means the Minister of Finance;
- “prescribed” means prescribed by regulation under the Government Fees Act 1965 [title 15 item 18].

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“Quarantine Authority” has the meaning assigned to it in section 2 of the Quarantine Act 2017.

[Section 1 “Bermuda airport” inserted on consolidation. Incorrectly put in 1999:13 (which inserted s.3A below) instead of in this section; “Quarantine Authority” inserted by 2017 : 11 s. 17 effective 24 April 2017]

Customs Department established

2 (1) There shall be established a Department of Government which shall be known as the Customs Department, the persons appointed to which shall have the powers and duties imposed upon members of the Department, Customs Officers or members of the Customs Division by this Act and any other enactment.

(2) The Department shall, subject to the general or special directions and control of the Minister, be under the supervision of a public officer who shall be known as the Collector of Customs and shall consist of such number of Assistant Collectors of Customs and other public officers as may from time to time be authorized by the Governor.

(3) Notwithstanding the foregoing, where any member of the Department is appointed to be an Immigration Officer pursuant to section 6 or a Health Officer pursuant to section 6A he shall, to the extent authorized by the Collector of Customs, comply with the directions and instructions of the Minister responsible for immigration and the Chief Immigration Officer or, as the case may be, the Quarantine Authority and the Chief Medical Officer in relation to matters falling within the control of those authorities and officers and shall comply with any provision of law for the time being in force relating to the functions to be performed by him in the capacity of an Immigration Officer or Health Officer.

(4) Notwithstanding the foregoing, where any member of the Department is acting in relation to any prohibition or restriction on the importation or exportation of goods, he shall, to the extent authorised by the Collector of Customs, comply with the directions and instructions of the Minister responsible for national security.

[Section 2 amended by 1998:20 effective 18 June 1998; subsection (3) amended and subsection (4) inserted by 2014 : 5 s. 2 effective 1 April 2014; subsection (3) amended by 2017 : 11 s. 17 effective 24 April 2017]

Charge payable for customs supervision of ship arriving in Bermuda; relaxation of supervision; exempted ships

3 (1) Where any ship, not being an exempted ship within the meaning of subsection (4), arrives in Bermuda from any port or place outside Bermuda the prescribed fee in respect of customs supervision of that ship shall be paid by or on behalf of the owner of the ship or, in the absence of the owner, then by or on behalf of the agent of the ship:

Provided that where the Collector of Customs is satisfied that, as respects any particular ship, customs supervision may be relaxed without endangering the safeguarding of the revenue, the Collector of Customs, if no substantial supervision is in fact exercised, may direct that such prescribed fee shall not be payable in respect of that ship.

(1A) In any case where a ship such as aforesaid arrives in Bermuda, from any port or place outside Bermuda, holding one or more ship containers, an additional prescribed

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fee shall be paid in respect of each such container by or on behalf of the owner of the ship or, in the absence of the owner, then by or on behalf of the agent of the ship.

[Subsection (1A) inserted by 1990:10 effective 1 April 1990]

(1B) In this Act, the expression “ship container” means a container of a permanent character specially designed to facilitate the carriage of goods by ship, and having an internal volume of not less than one cubic metre.

[Subsection (1B) inserted by 1990:10 effective 1 April 1990]

(2) Any charges falling to be paid under (1) may, without limit of amount, be recovered before a court of summary jurisdiction in the manner provided by the Magistrates Act 1948 [*title 8 item 15*] for the recovery of a debt or liquidated demand:

Provided that execution may issue immediately, and if the court so directs may, to the limit of the amount recovered as aforesaid, together with cost of execution, be levied on the goods or monies of the owner, agent or master of the ship, or, as the case may be, on the goods or monies of the consignor or consignee of any cargo, in connection with which the amount was recovered, wheresoever such goods or monies may be.

(3) Clearance shall not, unless the Collector of Customs otherwise directs, be granted in respect of any ship where any charges falling to be paid under subsection (1) in respect of that ship remain unpaid.

(4) For the purposes of the foregoing provisions of this section a ship shall be deemed to be an exempted ship if the ship—

- (a) is one of Her Majesty's Ships of War, or any other ship owned and operated by the Government of any part of Her Majesty's dominions; or
- (b) is a ship owned and operated as a public vessel by the Government of any state; or
- (c) is a ship for the time being used solely for scientific research or nautical exploration; or
- (d) is a yacht or other vessel used exclusively for pleasure purposes, including a superyacht which is chartered in accordance with the Passenger Ships and Other Vessels Act 1972; or
- (e) is a ship which arrives in Bermuda—
 - (i) solely by reason of being in distress; or
 - (ii) solely by reason of stress of weather; or
 - (iii) solely for the purpose of landing any person for medical reasons; or
 - (iv) solely for the purpose of landing any person who, being a passenger or forming part of the crew of any ship or aircraft, is rescued at sea; or
 - (v) solely for the purpose of obtaining fuel, water or ship stores; or

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(vi) solely by reason of assisting in the salvage of any other ship.

[Section 3 subsection (4)(c) amended by 2019 : 27 s. 7 effective 1 January 2020]

Charge for clearance of private aircraft

3A (1) Subject to subsection (3), the owner of a private aircraft which arrives at the Bermuda Airport from any place outside Bermuda shall pay the prescribed fee in respect of clearance of that aircraft.

(2) Clearance shall not, unless the Collector of Customs otherwise directs, be granted in respect of any aircraft where any fee falling to be paid under subsection (1) in respect of that aircraft remains unpaid.

- (3) The prescribed fee is not payable under subsection (1) where the aircraft--
- (a) is one of Her Majesty's aircraft or an aircraft owned and operated by the Government of any part of Her Majesty's dominions;
 - (b) is an aircraft owned and operated by the War, Navy or Air Force Department of the Government of any state;
 - (c) is an aircraft which arrives in Bermuda--
 - (i) solely by reason of being in distress;
 - (ii) solely by reason of stress of weather; or
 - (iii) solely for the purpose of landing any person for medical reasons.

(4) In this section, "owner" includes the pilot, agent or such other person who is responsible for clearance of an aircraft.

[Section 3A inserted by 1999:13 s.3 effective 29 March 1999]

Charges for services outside customs area

4 (1) Without prejudice to anything in the foregoing provisions of this Act, where, in the opinion of the Collector of Customs, it is necessary, having regard to all the circumstances including the exigencies of the customs service, for a member of the Department to exercise customs supervision—

- (a) outside a customs area within the meaning of the Revenue Act 1898 [*title 14 item 10*]; or
- (b) at any place between the hours of 5 p.m. and 8 a.m. during any day not being a Sunday or public holiday; or
- (c) at any place and at any time on a Sunday or public holiday,

then, in any such case the person requesting such supervision shall pay to the Collector of Customs the prescribed fee:

Provided that nothing in this subsection shall have effect in relation to the attendance of a member of the Department at a bonding warehouse within the meaning of the Revenue Act 1898 [*title 14 item 10*] between the hours of 8 a.m. and 5 p.m. inclusive for

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the purpose of supervising the placing in bond, or the taking out of bond, any packaged goods, being goods which require no packing or sorting before they are placed in bond or before being taken out of bond as the case may be, where such attendance—

- (a) is required by the Collector of Customs in accordance with the powers vested in him by the Revenue Act 1898 [*title 14 item 10*]; and
- (b) the person requesting supervision is unable to obtain from the Collector of Customs or other proper officer lawful authority for dispensing with such requirement:

Provided further that nothing in this subsection shall have effect so as to require any fee to be paid pursuant to this subsection in respect of the customs supervision of any ship container whether within or outside a customs area.

[Proviso to subsection (1) inserted by 1990:10 effective 1 April 1990]

(2) Any sum of money falling to be paid under subsection (1) may be recovered before a court of summary jurisdiction in the manner provided by the Magistrates Act 1948 [*title 8 item 15*] for the recovery of a debt or liquidated demand.

Charges for courier packages

4A (1) Without prejudice to anything in the foregoing provisions of this Act, the prescribed fee shall be paid to the Collector of Customs in respect of customs supervision (whether within or outside a customs area within the meaning of the Revenue Act 1898 [*title 14 item 10*]) of any courier package imported into Bermuda.

(2) In subsection (1), “courier package” means a package imported into Bermuda by or on behalf of a business providing a service of expeditious delivery of such packages for that business’s customers.

[Section 4A subsection (2) amended by 2010 : 14 s. 2 effective 25 March 2010]

Charges for customs stamps, seals etc.

4B The fee prescribed under the Government Fees Regulations 1976 shall be paid to the Collector of Customs in respect of the use or application of customs stamps, seals, certificates and other forms of certification or identification provided by the Department.

[Section 4B inserted by 2010 : 14 s. 3 effective 25 March 2010]

Charges for manual input of Bermuda Customs Declaration data

4C (1) The fee prescribed under the Government Fees Regulations 1976 shall be paid to the Collector of Customs in respect of the use or application of the manual input of Bermuda Customs Declaration data into customs automated processing system (CAPS) by the employees of the Customs Department.

(2) In this section, a “Bermuda Customs Declaration” means any customs declaration prescribed by the Collector of Customs under section 16 of the Revenue Act 1898.

[Section 4C inserted by 2016 : 15 s. 14 effective 1 October 2016]

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Powers and immunities of members of Customs Department

5 (1) Every member of the Department may make, while acting in the execution of his duty, such searches of ships, aircraft and goods as are reasonably required for the due performance of his duties as such a member by or under any provision of law, and for that purpose may enter (using reasonable force if necessary) any warehouse or other place of deposit inside a customs area within the meaning of the Revenue Act 1898 [*title 14 item 10*] and any wharf, dock or landing place wherever situated.

(2) Every member of the Department shall, while acting in the execution of his duty, be entitled to the like protection and immunity as is conferred by or under any provision of law upon a police officer acting in the execution of his duty in substantially similar circumstances.

Governor may appoint customs officers as Immigration Officers

6 (1) The Governor may appoint any member of the Department to be an Immigration Officer for the purpose of exercising any powers or performing any duties which may be exercised or performed by an Immigration Officer under the provisions of the Bermuda Immigration and Protection Act 1956.

(2) No member of the Department who is, under subsection (1), appointed to be an Immigration Officer shall be entitled to any other or additional salary or other emoluments by virtue of such appointment.

(3) The powers and immunities conferred upon members of the Department by section 5(1) and (2) shall extend to any such members who are appointed under this section to be Immigration Officers while acting in the execution of their duty as Immigration Officers.

[Section 6 headnote and subsections (2) and (3) amended and subsection (1) repealed and substituted by 2017 : 11 s. 17 effective 24 April 2017]

The Quarantine Authority may appoint customs officers as Health Officers

6A (1) The Quarantine Authority may appoint any member of the Department to be a Health Officer for the purpose of exercising any powers and performing any duties which may be exercised or performed by a Health Officer under the provisions of the Quarantine Act 2017.

(2) No member of the Department who is, under subsection (1), appointed to be a Health Officer shall be entitled to any other or additional salary or other emoluments by virtue of such appointment.

(3) The powers and immunities conferred upon members of the Department by section 5(1) and (2) shall extend to any such members who are appointed under this section to be Health Officers while acting in the execution of their duty as Health Officers.

[Section 6A inserted by 2017 : 11 s. 17 effective 24 April 2017]

[Assent Date: 1 July 1952]

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Amended by

1951 78
1959 102
1962 101
1963 152
1967 246
1968 140
1968 233
1969 667
1971 83
1973 98
1989 4
1990 10
1998 20
1999 13
2010 14
2014 5
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