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No. 43 of 2011



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**CUSTOMS MANAGEMENT (AMENDMENT) ACT, 2011**

**AN ACT TO AMEND THE CUSTOMS MANAGEMENT ACT,  
CHAPTER 293, TO PROVIDE FOR THE EXPORT CONTROL AND  
REGULATION OF SCRAP METAL AND COPPER**

[Date of Assent - 17<sup>th</sup> November, 2011]

**Enacted by the Parliament of The Bahamas**

**1. Short title and commencement.**

- (1) This Act, which amends the Customs Management Act<sup>1</sup>, may be cited as the Customs Management (Amendment) Act, 2011.
- (2) This Act shall come into force on a date to be appointed by the Minister by notice published in the Gazette.

**2. Insertion of sections 62A, 62B, 62C, 62D and 62E into the principal Act.**

The principal Act is amended by the insertion immediately after section 62 of the following new sections —

**“62A. Export of scrap metal and copper.**

- (1) In this section and in sections 62B, 62C, 62D and 62E of this Part —

“authorised dealer” means an exporter, shipper or vendor of scrap metal in possession of a valid business licence issued pursuant to the Business Licence Act, 2010 (*No. 25 of 2010*);

“authorised officer” means a —

- (a) customs officer;
- (b) police officer; or
- (c) Department of Environmental Health Officer of Assistant Director or above,

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<sup>1</sup>*Vol. VI, Ch. 293-44*

assigned to the special investigation unit within the Customs Department;

**“certified shipment”** means a shipment or container of scrap metal presented for export or transshipment which has been inspected and certified by an authorised officer to contain permitted scrap;

**“documented chain of custody”** means the documentary evidence referred to in section 62B certifying the origin and history of scrap metal;

**“permitted scrap”** means metal generated from —

- (a) contracted demolition;
- (b) authorised removal of derelict vehicles;
- (c) authorised scrapping of industrial equipment; or
- (d) a verified dump site;

**“restricted metals”** means copper, aluminium, brass and catalytic converters which comprise permitted scrap;

**“special investigation unit”** means the unit within the Customs Department established pursuant to section 62C.

(2) No person shall —

- (a) export scrap metal from The Bahamas to any place outside The Bahamas; or
- (b) transship scrap metal from a Family Island to New Providence or to any other Family Island,

unless —

- (i) such person is an authorised dealer;
- (ii) records showing a documented chain of custody have been submitted with the shipment or container;
- (iii) the shipment or container is a certified shipment;
- (iv) in the case of copper, the exporter, shipper or vendor has held the copper in his possession for a period of 30 days prior to its presentation for export or transshipment; and
- (iv) permission for export or transshipment has been granted by a customs officer of the special investigation unit.

(3) A person who contravenes any provision of subsection (2) commits an offence and shall be liable on summary conviction to —

- (a) a fine not exceeding fifty thousand dollars or three times the value of the shipment or container of scrap metal, whichever is the greater sum;
- (b) imprisonment for a term not exceeding twelve months; or
- (c) both fine and imprisonment as described in paragraphs (a) and (b).

**62B. Requirement to keep records to document chain of custody.**

- (1) An authorised dealer shall keep records of each customer from whom he receives scrap metal and such records shall include, for each customer —
  - (a) a valid photo identification;
  - (b) a receipt signed by the customer for each transfer of scrap metal to the dealer;
  - (c) a certification by the customer —
    - (i) that the scrap metal was legitimately obtained by him;
    - (ii) outlining the origin and history of the scrap metal prior to its possession by the customer; and
  - (d) in the case of copper, the customer's seal on the container.
- (2) The records referred to in subsection (1) shall provide a documented chain of custody when submitted in respect of a shipment or container of scrap metal presented for export or transshipment.

**62C. Special investigation unit.**

- (1) The Comptroller shall establish a special investigation unit within the Customs Department —
  - (a) to investigate and inspect shipments or containers of scrap metal presented for export or transshipment;
  - (b) after due investigation and inspection —
    - (i) to certify that a shipment or container contains permitted scrap; or
    - (ii) to refer the matter to the Royal Bahamas Police Force where a shipment or container does not contain permitted scrap;
  - (c) to conduct a comprehensive chain of custody investigation and inspection where a shipment or container of permitted scrap comprises copper or other restricted metals.
- (2) The special investigation unit may comprise, in addition to customs officers, officers assigned to it from the Royal Bahamas Police Force and the Department of Environmental Health Services.

- (3) The special investigation unit shall carry out its inspection and sealing of scrap metal containers laden for export —
  - (a) either at the point of demolition and during loading into a container for export; or
  - (b) at the exporter's place of business, if different from (a).
- (4) Officers of the special investigation unit only shall be authorised to certify that a shipment or container of scrap metal presented for export or transshipment contains permitted scrap.
- (5) A customs officer of the special investigation unit only shall be authorised to grant permission to export or transship permitted scrap.

**62D. Grant of permission to export.**

- (1) Subject to subsections (2) and (3), a customs officer of the special investigation unit shall grant permission to export or transship permitted scrap where —
  - (a) the shipment is a certified shipment;
  - (b) the exporter or shipper is an authorised dealer; and
  - (c) a documented chain of custody has been submitted with the shipment or container.
- (2) A customs officer of the special investigation unit shall not, where a certified shipment comprises restricted metals excluding copper, grant permission to export or transship until after a period of 15 days has elapsed since presentation for export or transshipment, as the case may be, to ensure and facilitate a comprehensive chain of custody investigation and inspection by the special investigations unit.
- (3) A customs officer of the special investigation unit shall not, where a certified shipment comprises copper, grant permission to export or transship unless —
  - (a) the exporter, shipper or vendor has held the copper in his possession for a period of 30 days prior to its presentation for export or transshipment;
  - (b) the special investigations unit has completed a comprehensive chain of custody investigation and inspection and verified the legitimacy of the origin and history of the copper; and
  - (c) where the copper comes from equipment or appliances, such equipment or appliance has been presented for export in its assembled state.

**62E. Repeal of No. 66 of 2011.**

The Export Control (Prohibition of Scrap Metal and Copper) Regulations, 2011  
(No. 66 of 2011) is repealed.”.