

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement
2. Interpretation
3. Section "2" amended
4. New Part inserted after "Part IX"
("Part IXA"—Sections "63A" to "63J")
5. Section "191" amended

FIJI

ACT NO. 23 OF 1996



I assent.

[L.S.]

K. K. T. MARA
President

[21 October 1996]

AN ACT

TO AMEND THE CUSTOMS ACT, 1986

ENACTED by the Parliament of Fiji

*Short title and commencement***1.—(1)** This Act may be cited as the Customs (Amendment) Act, 1996.**(2)** This Act shall come into force on a date appointed by the Minister and published in the *Fiji Republic Gazette*.*Interpretation***2.** The Customs Act, 1986, is in this Act referred to as "principal Act."*Section "2" amended***3.** Section "2" of the principal Act is amended by:—

- (a) deleting the definition of "bonded warehouse" and replacing it with:—
" "bonded warehouse" means a building or storage tank licensed by the Comptroller, in which goods entered to be warehoused maybe lodged, kept or secured pending payment of duty or exportation; and includes a customs warehouse and an export warehouse;"

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- (b) inserting the following immediately after the definition of "export":

"export warehouse" means a place appointed by the Comptroller for the deposit, keeping and securing of imported and Fiji manufactured goods for sale to a relevant traveller leaving Fiji from an approved airport or seaport. Export warehouses may be called duty free shops;"

- (c) inserting the following definition immediately after the definition of "master":

"member of crew" means:

- (a) in relation to an aircraft – the pilot, crew and attendants of the aircraft; and
- (b) in relation to a ship – the master, mate, engineer or any other members of the crew of the ship;"

- (d) inserting the following immediately after the definition of "prohibited goods":

"relevant traveller" means a person who intends to make an international flight or voyage whether, as a passenger on, or as the pilot or a member of the crew of, an aircraft or ship;"

New Part inserted after "Part IX"

4. The following new Part is inserted immediately after "PART IX":

"PART IX(A)—PROVISIONS RELATING TO EXPORT WAREHOUSE

Sales from an export warehouse

- 63A Subject to the regulations, specified goods may be sold to a relevant traveller in an export warehouse when,
- (a) delivered to the relevant traveller personally for export by him when making an international flight or voyage from Fiji; and,
- (b) exported by the relevant traveller when making that flight or voyage without the goods having been entered for export.

Export warehouses under control of Comptroller

- 63B. Every export warehouse shall be under the control of the Comptroller and the provisions of this Act relating to bonded warehouses shall, so far as is practicable, apply to export warehouses.

Deposit of goods in export warehouse pending export

- 63C. (1) The Comptroller may, in his discretion, allow the removal to and display of any prescribed goods in an export warehouse, pending their sale to an exportation by, a relevant traveller.
- (2) The removal and deposit of all prescribed goods in pursuance of the provisions of sub-section (1) shall be performed by and at the risk and expense of the licensee of the export warehouse.

Application for export warehouse licence

- 63D. (1) An application for an export warehouse licence shall be made to the Comptroller in writing, as prescribed, and shall state the place at which the applicant proposes to carry on business and shall be accompanied by the prescribed fee.
- (2) The application shall be made by the occupier of the premises to which it relates and shall be accompanied by such plans and particulars as the Comptroller may require.
- (3) A plan submitted under sub-section (2) shall show the limits of the area and buildings or parts of buildings which would constitute the proposed export warehouse.
- (4) The application shall be accompanied by details of security and insurance policies as the Comptroller may require.

Export warehouse to be gazetted

- 63E All export warehouses shall be appointed by the Comptroller by notice in the *Fiji Republic Gazette*.

Comptroller may impose conditions on warehouse licences

- 63F (1) The Comptroller may, at any time, impose conditions that, in the opinion of the Comptroller are necessary for the protection of revenue or for the purpose of ensuring compliance with this Act and may, at any time, revoke, suspend or vary a condition so imposed.
- (2) Where the Comptroller makes a decision to revoke, suspend or vary a condition of an export licence in accordance with subsection (1), the Comptroller shall cause to be served, either personally or by post, on the proprietor of the export warehouse, a notice in writing setting out the Comptroller's findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision.

Failure to comply with conditions

- 63G If a person who is required to comply with the conditions imposed in respect of sales from an export warehouse fails to comply with the conditions, he is guilty of an offence against this Act punishable upon conviction by a penalty not exceeding \$5,000.

Revocation of an export warehouse licence

- 63H (1) The Comptroller may, at any time, in his discretion, revoke, cancel or suspend an export warehouse licence, issued under section 38 of this Act.
- (2) Where the Comptroller makes a decision to revoke, cancel or suspend an export warehouse licence in accordance with subsection (1), the Comptroller shall cause to be served, either personally or by post, on the proprietor of the export warehouse, a notice in writing setting out the Comptroller's findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision.

Goods must be sold for export

- 63I (1) All goods in an export warehouse must be intended for sale to relevant travellers for exportation from Fiji.
- (2) No goods may be sold to a relevant traveller without the production of:
- (a) a current passport in the name of the relevant traveller; and
 - (b) an airline or shipping ticket which indicates that the relevant traveller will be departing Fiji within five (5) days of the sale of goods.
 - (c) Other prescribed conditions relating to sales to relevant travellers must be adhered to and notwithstanding anything to the contrary contained in this Act, the Comptroller may impose further conditions to meet the exigencies of any case to which the provisions of this Act may not be strictly applicable.

Evidence of export

- 63J Where the licensee of an export warehouse does not produce the proof required as evidence that the goods delivered by him to a relevant traveller have been exported by that relevant traveller, the goods shall be deemed to have been entered, and delivered, for home consumption by the licensee, as owner of the goods, on the day on which the goods were delivered to that traveller."

Section "191" amended

5. Section "191" of the principal Act is amended in subsection "(1)" by deleting paragraph "(h)" and replacing it with:

"(h) the control and regulation of customs warehouses, export warehouses, customs areas, customs sheds and other customs establishments;"

Passed by the House of Representatives this Seventeenth day of September, in the year of our Lord One Thousand, Nine Hundred and Ninety-Six.

Passed by the Senate this First day of October, in the year of our Lord One Thousand, Nine Hundred and Ninety-Six.