

**MALTA**

**ATT Nru. XXXVI ta' l-1989**

**ACT No. XXXVI of 1989**

ATT maħruġ b'ligi mill-Parlament ta' Malta.

AN ACT enacted by the Parliament of Malta.

**ATT biex jemenda l-Ordinanza tad-Dwana, Kap. 37.**

**AN ACT to amend the Customs Ordinance, Cap. 37.**

Naghti l-kunsens tieghi.

(L.S.)

ĠENSU TABONE  
President

12 ta' Diċembru, 1989

**ATT Nru. XXXVI ta' l-1989**

*ATT biex jemenda l-Ordinanza tad-Dwana, Kap. 37*

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'liġi dan li ġej:—

1. (1) Dan l-Att jista' jissejjaħ l-Att ta' l-1989 li jemenda l-Ordinanza tad-Dwana, u għandu jinqara u jiftiehem haġa waħda ma' l-Ordinanza tad-Dwana, hawnhekk iżjed 'il quddiem imsejha "il-liġi prinċipali".

Titolu fil-qosor  
u bidu  
fis-sehh.  
Kap. 37

(2) Dan l-Att għandu jiġi fis-sehh f'dik id-data li l-Ministru responsabbli għad-dwana jista' b'avviż fil-Gazzetta jstabilixxi u dati differenti jistgħu jiġu hekk stabbiliti għal provvedimenti u għanijiet differenti ta' dan l-Att.

2. L-artikolu 60 tal-liġi prinċipali għandu jiġi emendat kif ġej:

Emenda ta'  
l-artikolu 60  
tal-liġi  
prinċipali.

(a) minflok il-kliem "fil-limiti ta' Malta," fil-paragrafu (h) tiegħu, għandhom jidhlu l-kliem "fil-limiti ta' Malta; jew"; u

(b) minnufih wara l-paragrafu (h) tiegħu għandhom jidhlu dawn il-paragrafi li ġejjin:

"(i) jekk oġġetti meħlusin mid-dazju importati minn xi persuni kif imsemmi fl-artikolu 6 ta' l-Att ta' l-1989 dwar id-Dazji ta' Importazzjoni jinbiegħu jew issir it-tnehhija tagħhom għall-użu jew konsum f'Malta u ma ssirx dikjarazzjoni shiha tagħhom skond ma hemm stabbilit fis-subartikolu (3) ta' l-artikolu 6 ta' l-imsemmi Att minn min hu obligat iħallas id-dazju fuqhom skond ma hemm fl-imsemmi artikolu; jew

(j) jekk oġġetti importati jew maħruġin mid-depożt skond is-subparagrafu (ii) tal-paragrafu (d) tas-subartikolu (2) ta' l-artikolu 17 ta' l-Att ta' l-1989 dwar id-Dazji ta' Importazzjoni ma jergħux jiġu esportati fiż-żmien stipulat skond ma hemm fl-istess subparagrafu; jew

(k) jekk oġġetti jkunu importati minn xi persuna li tkun xjentement imdahhla f'xi evażjoni jew tentattiv ta' evażjoni frawdolenti ta' xi dazji tad-dwana, jew tal-liġijiet u restrizzjonijiet ta' dwana, dwar l-importazzjoni, hatt, trasbord, żbark u kunsinna ta' oġġetti jew b'kull mod ieħor li jmur kontra din l-Ordinanza.”.

Emenda ta' l-artikolu 61 tal-liġi prinċipali.

### 3. Minflok l-artikolu 61 tal-liġi prinċipali għandu jidhol dan li ġej:

“Oġġetti li jkunu iktar minn dak li jkun jidher fuq il-fattura ta' l-esportatur.

61. (1) Jekk fiż-żmien ta' l-eżami minn uffiċjal tad-dwana xi oġġetti jkunu jinsabu fi kwantità aktar minn, jew differenti minn, dawk li jkunu jidhru fuq il-fattura ta' l-esportatur jew li jkunu dikjarati mill-importatur jew mill-aġent tiegħu, f'dak il-każ, minkejja dak kollu li jinsab f'xi dispożizzjoni oħra ta' liġi, dawk l-oġġetti li jinsabu żejda jew dawk l-oġġetti differenti għandhom jiġu kkonfiskati u

(a) meta l-valur tal-oġġetti li hekk jinsabu fi kwantità akbar jew differenti jkunu ta' hames mitt lira Maltija jew aktar, dawk l-oġġetti li jkunu ġew hekk konfiskati għandhom jitnehhew b'dak il-mod li l-Ministru responsabbli għad-dwana jista' jistabilixxi; u

(b) meta l-valur tal-oġġetti li hekk jinsabu fi kwantità akbar jew differenti jkun ta' inqas minn hames mitt lira Maltija, dawk l-oġġetti li jkunu ġew hekk konfiskati għandhom jitnehhew hekk kif il-Kontrullur tad-Dwana jista' jistabilixxi.

Dik il-konfiska tkun bla hsara għal kull azzjoni li tista' tittiehed kontra l-importatur jew l-aġent tiegħu, jew kontra t-tnejn, skond xi dispożizzjoni oħra tal-liġi.

(2) Id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu ma għandhomx jghoddu meta l-awtorità kompetenti tkun sodisfatta li d-diskrepanza tkun grat minhabba fi żball ġenwin.

(3) Għall-finijiet tas-subartikolu (2) ta' dan l-artikolu “awtorità kompetenti” tfisser meta l-valur tal-oġġetti li jinsabu fi kwantità akbar jew differenti minn dak li jidher fuq il-fattura tal-esportatur jew li jiġi dikjarat mill-importatur jew mill-aġent tiegħu

(a) ikun ta' hames mitt lira Maltija jew iktar, il-Ministru responsabbli għad-dwana;

(b) ikun anqas minn hames mitt lira Maltija, il-Kontrullur tad-Dwana.”.

4. L-artikolu 62 tal-liġi prinċipali għandu jiġi emendat kif ġej:

Emenda ta' l-artikolu 62 tal-liġi prinċipali.

(a) minflok il-kliem “li tkun falza f’detall sostanzjali,” fil-paragrafu (m) tiegħu, għandhom jidhlu l-kliem “li tkun falza f’detall sostanzjali; jew” u

(b) minnufih wara l-paragrafu (m) tiegħu, għandu jidhol dan il-paragrafu li ġej:

“(n) jonqos fiż-żmien stabbilit fis-subartikolu (3) ta’ l-artikolu 6 ta’ l-Att ta’ l-1989 dwar id-Dazji ta’ Importazzjoni milli jagħmel dikjarazzjoni sew ta’ xi oġġetti li dwarhom hu obbligat li jhallas id-dazju skond is-subartikolu (2) ta’ l-imsemmi artikolu.”.

5. Minnufih wara l-artikolu 63 tal-liġi prinċipali għandu jidded dan l-artikolu ġdid li ġej:

Zieda ta’ artikolu ġdid 63A mal-liġi prinċipali.

“Estinzjoni ta’ responsabbiltà kriminali f’ċerti każijiet.

63A. (1) Minkejja kull dispożizzjoni oħra ta’ din l-Ordinanza, il-Kontrullur jista’, biss sa fejn jirrigwarda d-dispożizzjonijiet ta’ din l-Ordinanza, jidhol fi ftehim bil-miktub ma’ dak li jkun għamel l-offiża, li bih dak li jkun għamel l-offiża jhallas somma ekwivalenti għall-multa li kienet tkun dovuta bħala penali skond id-dispożizzjonijiet ta’ din l-Ordinanza, u ma’ l-iffirmar ta’ kull ftehim bhal dak mill-Kontrullur u dak li jkun għamel l-offiża, kull responsabbiltà kriminali taht din l-Ordinanza ta’ dak li jkun għamel l-offiża fir-rigward ta’ l-offiži li dwarhom ikun sar il-ftehim tiġi estinta:

Iżda kull qbid ikkontemplat f’din l-Ordinanza bħala konsegwenza ta’ xi offiża li għaliha jirriferti l-ftehim għandu xorta wahda jkollu effett sakemm dak li jkun għamel l-offiża ma jagħzilx li jhallas ukoll lill-Kontrullur somma ekwivalenti għall-valur ta’ l-oġġetti maqbuda flimkien ma’ kull dazju jew imposta dovut fuqhom. Dak il-valur ikun determinat skond il-provvedimenti ta’ l-Att ta’ l-1989 dwar id-Dazji ta’ Importazzjoni.

(2) Id-dispożizzjonijiet tas-subartikolu (1) ta’ dan l-artikolu japplikaw ukoll f’xi każ fejn dak li jkun għamel l-offiża jkun għa tressaq quddiem Qorti għar-rigward ta’ l-offiża, iżda qabel ma tkun inghatat sentenza finali fil-każ:

Iżda meta proċeduri quddiem Qorti jkunu għadhom ma nbdewx, is-somma pagabbli skond xi ftehim kif kontemplat fis-subartikolu (1) ta’ dan l-artikolu tkun ridotta b’għaxra fil-mija.

(3) Id-dispożizzjonijiet tas-subartikolu (1) ta’ dan l-artikolu ma japplikawx għar-rigward ta’ reat dwar oġġetti msemmijin fl-Iskeda li tinsab ma’ din l-Ordinanza.

(4) Kull somma dovuta skond ftehim magħmul skond is-subartikolu (1) ta' dan l-artikolu, tkun dovuta lill-Gvern bhala dejn ċivili. Il-Kontrullur ma għandux jidhol fi ftehim kif imsemmi fis-subartikolu (1) ta' dan l-artikolu, jekk dak il-ftehim ma jkunx akkompanjat bil-hlas tas-somma dovuta jew b'garanzija suffiċjenti għall-hlas ta' l-istess.”.

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Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 304 tat-13 ta' Novembru, 1989.

LAWRENCE GONZI  
*Speaker*

P. MUSCAT TERRIBILE  
*Skrivan tal-Kamra tad-Deputati*

I assent.

(L.S.)

ĊENSU TABONE  
President

12th December, 1989

**ACT No. XXXVI of 1989**

*AN ACT to amend the Customs Ordinance, Cap. 37*

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the Customs (Amendment) Act, 1989, and shall be read and construed as one with the Customs Ordinance hereinafter referred to as “the principal law”.

Short title  
and  
commencement.

Cap. 37.

(2) This Act shall come into force on such date as the Minister responsible for customs may by notice in the Gazette establish and different dates may be so established for different provisions and purposes of this Act.

2. Section 60 of the principal law shall be amended as follows:

Amendment of  
section 60  
of the  
principal law.

(a) for the words “within the limits of Malta,” in paragraph (h) thereof, there shall be substituted the words “within the limits of Malta; or”; and

(b) immediately after paragraph (h) thereof there shall be added the following paragraphs:

“(i) if any goods imported free of duty by any person as is mentioned in section 6 of the Import Duties Act, 1989 are sold or disposed of for use or consumption in Malta and a perfect entry thereof is not made within the terms fixed in subsection (3) of section 6 of the said Act by the person liable to duty thereon in terms of the said section; or

(j) if any goods imported or taken out of bond in terms of subparagraph (ii) of paragraph (d); of subsection (2) of section 17 of the Import Duties Act, 1989 are not re-exported within the time stipulated in accordance with the same subparagraph; or

(k) if any goods are imported by any person who is knowingly concerned in any fraudulent evasion or attempt at evasion of any duties of customs, or of the laws and restrictions of customs, relating to importation, unshipping, transshipping, landing and delivery of goods or otherwise contrary to this Ordinance,”.

Amendment of section 61 of the principal law.

3. For section 61 of the principal law there shall be substituted the following:

“Goods in excess of supplier’s invoice.

61. (1) If at the time of examination by an officer of customs any goods are found in excess of, or different to, those appearing on the supplier’s invoice or declared by the importer or his agent, then, notwithstanding any other provision of law, such goods found in excess or such different goods shall be forfeited and

(a) where the value of the goods so found in excess or different is five hundred Maltese liri or over, such goods so forfeited shall be disposed of in such manner as the Minister responsible for customs may direct; and

(b) where the value of the goods so found in excess or different is less than five hundred Maltese liri such goods so forfeited shall be disposed of as the Comptroller of Customs may direct.

Such forfeiture shall be without prejudice to any action which may be taken against the importer or his agent, or against both, in virtue of any other provisions of law.

(2) The provisions of subsection (1) of this section shall not apply where the competent authority is satisfied that the discrepancy was due to a genuine error.

(3) For the purposes of subsection (2) of this section “competent authority” means where the value of the goods found in excess or different to those appearing in the supplier’s invoice or declared by the importer or his agent;

(a) is five hundred Maltese liri or more, the Minister responsible for customs;

(b) is less than five hundred Maltese liri, the Comptroller of Customs.”.

4. Section 62 of the principal law shall be amended as follows:

Amendment of  
section 62  
of the  
principal law.

(a) for the words “which is false in a material particular,” in paragraph (m) thereof, there shall be substituted the words “which is false in a material particular; or”; and

(b) immediately after paragraph (m) thereof, there shall be added the following paragraph:

“(n) fails within the time stipulated in subsection (3) of section 6 of the Import Duties Act 1989, to make a proper entry of any goods on which he is liable to pay duty in terms of subsection (2) of the said section.”.

5. Immediately after section 63 of the principal law there shall be added the following new section:

Addition of  
new section  
63A to the  
principal law.

Extinction  
of criminal  
liability  
in certain  
cases.

63A. (1) Notwithstanding any other provision of this Ordinance, the Comptroller may, only as far as the provisions of this Ordinance are concerned, enter into an agreement in writing with the offender whereby the said offender pays a sum equivalent to the fine (*multa*) that would be due by way of penalty in accordance with the provisions of this Ordinance, and upon the signing of any such agreement by the Comptroller and the offender, all criminal liability of the offender under this Ordinance, with regard to the offences in relation to which the agreement has been entered, shall be extinguished:

Provided that any forfeiture contemplated in the Ordinance as a consequence to the offence to which the agreement relates, shall notwithstanding such agreement, still take effect unless the offender elects to pay also to the Comptroller, a sum equivalent to the value of the goods forfeited together with any amount of duty or levy due thereon. Such value shall be determined in accordance with the provisions of the Import Duties Act, 1989.

(2) The provisions of subsection (1) of this section shall apply also in any case where the offender has been charged before a Court in relation to the offence, but before final judgement has been given in the case:

Provided that where proceedings before a Court have not been commenced, the sum payable in accordance with any agreement as contemplated in subsection (1) of this section shall be reduced by ten per centum.

(3) The provisions of subsection (1) of this section shall not apply in relation to an offence concerning goods mentioned in the Schedule to this Ordinance.

(4) Any sum due in virtue of an agreement entered into in terms of subsection (1) of this section, shall be due to the Government as a civil debt. The Comptroller shall not enter into an agreement as is referred to in subsection (1) of this section, unless such agreement is accompanied by the payment of the sum due or a sufficient security for its payment.”.

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Passed by the House of Representatives at Sitting No. 304 of the 13th November, 1989.

LAWRENCE GONZI  
*Speaker*

P. MUSCAT TERRIBILE  
*Clerk to the House of Representatives*