

## **Nru. 84**

20. 10. 89

### **MALTA**

#### **KAMRA TAD-DEPUTATI**

#### **HOUSE OF REPRESENTATIVES**

ABBOZZ ta' Liġi mressaq mill-Onorevoli George Bonello du Puis, M.P., Ministru tal-Finanzi, u moqri għall-Ewwel darba fis-Seduta ta' l-24 ta' April, 1989.

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

A BILL introduced by the Honourable George Bonello du Puis, M.P., Minister of Finance, and read the First time at the Sitting of the 24th April, 1989.

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

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

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

## ABBOZZ TA' LIĠI

### msejjah

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

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamira 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' jissejjah 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 mehlu sin 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 obbligat ihallas id-dazju fuqhom skond ma hemm fl-imsemmi artikolu; jew

(j) jekk oġġetti importati jew mahruġin mid-depożit 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-Kontrollur tad-Dwana jista' jistabilixxi.

Dik il-konfiska tkun bla ħsara 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 jgħoddu meta l-awtorità kompetenti tkun sodisfatta li d-diskrepanza tkun għat 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-Kontrollur 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'dettall 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 jiżdied dan l-artikolu ġdid li ġej:

Zieda ta' l-artikolu ġdid 63A mal-liġi prinċipali.

"Setgħa tal-Kontrollur li jwahaħhal pjeni u li jwaqqaf proċedimenti

63A. (1) Minkejja kull dispożizzjoni oħra ta' din l-Ordinanza, il-Kontrollur jista', sakemm biss jintlaqtu id-dispożizzjonijiet ta' din l-Ordinanza, bi qbil bil-miktub ma' l-imputat, iwahaħhal bhala alternattiva għal proċedimenti fil-Qorti l-pieni kontemplati f'din l-Ordinanza u f'kull każ bhala dan jekk l-imputat ikun ġa tressaq quddiem il-Qorti, il-Kontrollur jista', qabel ma tkun ingħatat is-sentenza, iwaqqaf il-proċedimenti u jimponi l-pieni shaħ preskritti.

(2) 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.

(3) Kull piena imwahaħla bis-saħħa tas-subartikolu (1) ta' dan l-artikolu, tkun dovuta lill-Gvern bhala dejn ċivili."

### Għanijiet u Raġunijiet

L-għan prinċipali ta' l-Abbozz huwa sabiex jemenda l-Ordinanza tad-Dwana billi jagħmel emendi lill-Ordinanza tad-Dwana li johorġu minn emendi oħrajn li saru fil-liġijiet dwar dazji tal-importazzjoni. L-Abbozz idahħal ukoll emendi li jipprovdu għall-ġbir amministrattiv ta' ċerti pjeni minflok proċedimenti kriminali.

**A BILL  
entitled**

*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:—

Short title  
and  
commencement.  
Cap. 37.

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”.

(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.

Amendment of  
section 60  
of the  
principal law.

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

(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.”.

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

Amendment  
of section 61  
of the principal  
law.

“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.”.

Amendment of section 62 of the principal law.

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

(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."

Addition of new section 63A to the principal law.

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

"Power of Comptroller to impose penalties and stay proceedings.

63A. (1) Notwithstanding any other provision of this Ordinance, the Comptroller may, only as far as the provisions of this Ordinance are concerned, with the concurrence in writing of the offender, impose as an alternative to proceedings in Court the penalties contemplated under this Ordinance and in any such case if the offender has already been charged before the Court, the Comptroller may, before judgement, stay proceedings and impose the full penalties prescribed.

(2) 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.

(3) Any penalty imposed in virtue of subsection (1) of this section, shall be due to the Government as a civil debt."

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### Objects and Reasons

The main object of the Bill is to amend the Customs Ordinance making amendments to the Customs Ordinance consequential to other amendments effected in the laws relating to import duties. The Bill also makes amendments providing for certain penalties to be collected administratively in lieu of court proceedings.