

81/01/95

No. 42 of 1995.

***Customs (Budget Provisions 1996) Act 1995.***

Certified on: 22.01.1996

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No.            of            1995.

*Customs (Budget Provisions 1996) Act 1995.*

ARRANGEMENT OF SECTIONS.

1.    New Section 54A.  
      "54A. OUTWARDS DUTY FREE SHOPS."
2.    New Section 54B.  
      "54B. INWARDS DUTY FREE SHOPS."
3.    New Section 194.  
      "194. REFUND SET-OFF."

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1995.

AN ACT

entitled

*Customs (Budget Provisions 1996) Act 1995,*

Being an Act to amend the *Customs Act* (Chapter 101),

MADE by the National Parliament to be deemed to have come into operation on 2 November 1995.

1. **NEW SECTION 54A.**

The Principal Act is amended by inserting after Section 54 the following new section:-

**'54A. OUTWARDS DUTY FREE SHOPS.**

(1) In this section -

"international flight" means a flight, whether direct or indirect, by an aircraft between a place in Papua New Guinea from which the aircraft takes off and a place outside Papua New Guinea at which the aircraft lands or is intended to land;

"outwards duty free shops" means a warehouse in respect of which the relevant warehouse licence authorizes the sale in the warehouse of goods to relevant travellers;

"place outside Papua New Guinea" does not include -

- (a) a ship, or an area of waters, outside Papua New Guinea; or
- (b) an installation outside Papua New Guinea; or
- (c) a reef, or an uninhabited island, outside Papua New Guinea;

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"proprietor". in relation to an outwards duty free shop, means the holder of the warehouse licence that relates to the outwards duty free shop;

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

"(2) Subject to the regulations (if any), the Commissioner of Customs may give permission, in accordance with Subsection (3), for goods that are specified in the permission and are sold to a relevant traveller in an outwards duty free shop that is specified in the permission to be -

- (a) delivered to the relevant traveller personally for export by him when making the international flight in relation to which he is a relevant traveller; and
- (b) exported by the relevant traveller when making that flight without the goods having been entered for export,

and, subject to Subsection (13), the permission is authority for such goods to be so delivered and so exported.

"(3) Permission under Subsection (2) is given in accordance with this subsection if it is in writing and is delivered to the proprietor of the outwards duty free shop to which the permission relates.

"(4) Permission under Subsection (2) may relate to particular goods, all goods, goods included in a specified class or classes or goods or goods other than goods included in a specified class or classes of goods.

"(5) Without limiting the matters that may be prescribed in regulations referred to in Subsection (2), those regulations -

- (a) may prescribe circumstances in which permission under that subsection may be given; and
- (b) may prescribe matters to be taken into account by the Commissioner of Customs when deciding whether to give permission under that subsection; and
- (c) may prescribe conditions to which a permission under that subsection is to be subject.

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"(6) The Commissioner of Customs may, when giving permission under Subsection (2) or at any time while a permission under that subsection is in force, impose conditions to which the permission is to be subject, being conditions that, in the opinion of the Commissioner of Customs, are necessary for the protection of the revenue or for the purpose of ensuring compliance with this Act and may, at any time, revoke, suspend or vary, or cancel a suspension of, a condition so imposed.

"(7) Without limiting the generality of Subsection (5)(c) or Subsection (6), a condition referred to in that paragraph or that subsection to which a permission is to be subject may be -

- (a) a condition to be complied with by the proprietor of the outwards duty free shop to which the permission relates or by relevant travellers to whom goods to which the permission relates are sold; or
- (b) a condition that the permission only applies to sales to relevant travellers who comply with a prescribed requirement or requirements, which may be, or include, a requirement that relevant travellers produce to the proprietor of the outwards duty free shop to which the permission relates or to a servant or agent of that proprietor a ticket or other document, being a document approved by the Commissioner of Customs for the purposes of this paragraph, showing that the relevant traveller is entitled to make the international flight in relation to which he is a relevant traveller; or
- (c) a condition that the proprietor of the outwards duty free shop to which the permission relates will keep records specified in the regulations and will notify the Commissioner of Customs of all sales made by him to which the permission applies.

"(8) A condition imposed in respect of a permission under Subsection (6) or a revocation, suspension or variation, or a cancellation of a suspension, of such a condition takes effect when notice, in writing, of the condition or of the revocation, suspension or variation, or of the cancellation of the suspension, is served on the proprietor of the outwards duty free shop to which it relates, or at such later time (if any) as is specified in the notice, but does not have effect in relation to any goods delivered to a relevant traveller before the notice was served.

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"(9) A condition imposed in respect of a permission under Subsection (5)(c) or Subsection (6) or a revocation, suspension or variation, or a cancellation of a suspension, of a condition under Subsection (6) may relate to all goods to which the permission relates or to particular goods to which the permission relates and may apply either generally or in particular circumstances.

- "10) A permission under Subsection (2) is subject to -
- (a) a condition that the proprietor of the outwards duty free shop to which the permission relates will ensure that relevant travellers to whom goods are delivered in accordance with the permission are aware of any conditions of the permission with which they are required to comply; and
  - (b) the condition that the proprietor will provide the Commissioner of Customs with proof, in a prescribed way and within a prescribed time, of the export of goods delivered to a relevant traveller in accordance with the permission.

"(11) A person, who is required to comply with a condition imposed in respect of a permission under Subsection (2) and who fails to comply with the condition, is guilty of an offence.

Penalty: A fine not exceeding K5,000.00.

"(12) Where the proprietor of an outwards duty free shop to which a permission under Subsection (2) relates does not produce the proof required by Subsection (10)(b) that goods delivered by him to a relevant traveller in accordance with the permission have been exported by that traveller, the goods shall be deemed to have been entered, and delivered for home consumption by the proprietor, as owner of the goods, on the day on which the goods are delivered to that traveller.

"(13) The Commissioner may, in accordance with the regulations, revoke a permission given under Subsection (2) in relation to the sale of goods occurring after the revocation.

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- "(14) Where the Commissioner makes a decision under -
- (a) Subsection (2) refusing to give permission to the proprietor of an outwards duty free shop; or
  - (b) Subsection (13) revoking a permission given under Subsection (2),

he shall cause to be served, either personally or by post, on the proprietor of the shop, a notice in writing setting out the Commissioner of Customs' 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.

**2. NEW SECTION 54B.**

The Principal Act is amended by inserting after Section 54A the following new section:-

**§ "54B. INWARDS DUTY FREE SHOPS.**

(1) In this section -

"international flight" means a flight, whether direct or indirect, by an aircraft between a place outside Papua New Guinea from which the aircraft takes off and a place in Papua New Guinea at which the aircraft landed;

"inwards duty free shop" means a warehouse at an airport in respect of which the relevant warehouse licence authorizes the sale in the warehouse of goods to relevant travellers;

"place outside Papua New Guinea" does not include -

- (a) a ship, or an area of waters, outside Papua New Guinea; or
- (b) an installation outside Papua New Guinea; or
- (c) a reef, or an uninhabited island, outside Papua New Guinea;

"proprietor", in relation to an inwards duty free shop, means the holder of the warehouse licence that relates to the inwards duty free shop;

"relevant traveller" means a person who -

- (a) arrived in Papua New Guinea on an international flight, whether as a passenger on, or as the pilot or a member of the crew of, an aircraft; and
- (b) has not been questioned, for the purposes of this Act, by an officer of Customs in respect of goods carried on that flight.

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"(2) A warehouse licence is not to authorize the sale in the warehouse of goods to relevant travellers where the warehouse -

- (a) is situated at an airport; and
- (b) is so isolated that passengers on international flights who arrive at that airport would not normally have access to the warehouse before being questioned for the purposes of this Act by officers of Customs.

"(3) Subject to the regulations (if any), the Commissioner of Customs may give permission, in accordance with Subsection (4), for airport shop goods that are specified in the permission and are sold to a relevant traveller in an inwards duty free shop that is specified in the permission to be -

- (a) delivered to the relevant traveller; and
- (b) taken by the relevant traveller for reporting to an officer of Customs doing duty in relation to clearance through Customs of the personal baggage of the relevant traveller.

"(4) Permission under Subsection (3) is given in accordance with this subsection if it is in writing and is delivered to the proprietor of the inwards duty free shop to which the permission relates.

"(5) Without limiting the matters that may be prescribed in regulations referred to in Subsection (3), those regulations -

- (a) may prescribe circumstances in which permission under that subsection may be given; and
- (b) may prescribe matters to be taken into account by the Commissioner of Customs when deciding whether to give permission under that subsection; and
- (c) may prescribe conditions to which a permission under that subsection is to be subject.

"(6) The Commissioner of Customs may, when giving permission under Subsection (3) or at any time while a permission under that subsection is in force, impose conditions to which the permission is to be subject, being conditions that, in the opinion of the Commissioner of Customs, are necessary for the protection of the revenue or for the purpose of ensuring compliance with this Act, and may, at any time, revoke, suspend or vary, or cancel a suspension of, a condition so imposed.

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"(7) Without limiting the generality of Subsection (5)(c) or Subsection (6), a condition referred to in that paragraph or that subsection to which a permission is to be subject may be -

- (a) a condition to be complied with by the proprietor of the inwards duty free shop to which the permission relates or by relevant travellers to whom goods to which the permission relates are sold; or
- (b) a condition that the proprietor of the inwards duty free shop to which the permission relates will keep records specified in the regulations.

"(8) A condition imposed in respect of a permission under Subsection (6) or a revocation, suspension or variation, or a cancellation of a suspension, of such a condition takes effect when notice in writing of the condition or of the revocation, suspension or variation, or of the cancellation of the suspension, is served on the proprietor of the inwards duty free shop to which it relates, or at such later time (if any) as is specified in the notice, but does not have effect in relation to any goods delivered to a relevant traveller before the notice was served.

"(9) A condition imposed in respect of a permission under Subsection (5)(c) or Subsection (6) or a revocation, suspension or variation, or a cancellation of a suspension, of a condition under Subsection (6) may relate to all goods to which the permission relates or to particular goods to which the permission relates and may apply either generally or in particular circumstances.

"(10) A permission under Subsection (3) is subject to the condition that the proprietor of the inwards duty free shop to which the permission relates will ensure that relevant travellers to whom goods are delivered in accordance with the permission are aware of any conditions of the permission, with which they are required to comply.

"(11) A person, who is required to comply with a condition imposed in respect of a permission under Subsection (3) and who fails to comply with the condition, is guilty of an offence.

Penalty: A fine not exceeding K5000.00.

"(12) The Commissioner of Customs may, in accordance with the regulations, revoke a permission given under Subsection (3) in relation to the sale of goods occurring after the revocation.



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- "(13) Where the Commissioner of Customs makes a decision -  
(a) under Subsection (3) refusing to give permission to the proprietor of an inwards duty free shop; or  
(b) under Subsection (12) revoking a permission given under Subsection (3),

the Commissioner of Customs shall cause to be served, either personally or by post, on the proprietor of the shop, a notice in writing setting out the 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."

**3. NEW SECTION 194.**

The Principal Act is amended by inserting after Section 193 the following new section:-

**"194. REFUND SET-OFF.**

Where the Commissioner of Customs is required or authorized under Sections 104, 108 and any other section to make a refund of any customs duty or drawback of auctions duty, the Commissioner of Customs may, on the written application by or on behalf of the person to whom the refund is due ("the taxpayer") apply or credit the amount of the refund to any income tax or withholding tax or salary or wages tax or stamp duty or excise duty or any other tax or duty charged, levied or imposed under any revenue legislation administered by the Commissioner General payable by the taxpayer."

I hereby certify that the above is a fair print of the *Customs (Budget Provisions 1996) Act 1995* which was made by the National Parliament.

Acting Clerk of the National Parliament.

I hereby certify that the *Customs (Budget Provisions 1996) Act 1995* was made by the National Parliament on 6 December 1995.

Acting Speaker of the National Parliament.

