



BERMUDA

CUSTOMS TARIFF ACT 1970

1970 : 361

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[preamble and words of enactment omitted]

Interpretation

1 In this Act, unless the context otherwise requires,—

“bonded warehouse” means any premises licensed by the Collector of Customs under section 50 of the Revenue Act 1898, in respect of which a licence is in force;

“customs declaration” has the same meaning as in section 2 of the Revenue Act 1898;

“customs procedure code” or “CPC” means the customs procedure code assigned by the Collector of Customs for goods of a particular description for the purpose of determining the rate of duty for those goods;

“for home use” means for home consumption or for any use other than for immediate exportation or shipment as stores;

“goods” includes ships, vessels, aircraft, containers and all kinds of articles, wares, merchandise, natural products and livestock;

“Heading” or “heading” means a heading of the Bermuda Nomenclature, being a numerical code (in the first column of a Chapter of the First Schedule) for goods of a particular class or description;

“importer” includes—

(a) the owner or any other person for the time being possessed of or beneficially interested in any goods at the time of their importation or at the time of taking the goods out of bond from a bonded warehouse;

(b) any person who signs as authorized agent on behalf of any such person, any document relating to such goods;

“islander” means a natural person who under the Bermuda Immigration and Protection Act 1956 is entitled to reside in Bermuda;

“litre of alcohol” in relation to the alcoholic content of any liquor shall be calculated from readings obtained using a Gay Lussac hydrometer;

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“Minister” means the Minister of Finance;

“non-resident” means a natural person who is—

- (a) a visitor; or
- (b) an islander who has been resident outside of Bermuda for a continuous period of 6 months within the last 12 months;

“special rate” *[repealed by 2013 : 8 s. 2]*

“standard rate” *[repealed by 2013 : 8 s. 2]*

“Tariff Code” or “tariff code” means a subheading of the Bermuda Nomenclature, being a numerical code (in the second column of a Chapter of the First Schedule) for goods of a particular class or description;

“transhipment” with its grammatical variations and cognate expressions means the transfer either directly or indirectly, of any goods from any aircraft or vessel arriving in Bermuda to an aircraft or vessel departing to a place outside Bermuda;

“unit of classification” means the unit of quantity of goods of any description to be used in the customs declaration;

“unit for duty” means the unit to be taken for the purpose of assessing duty upon goods of any description, and includes value;

“value” in relation to any goods means the value of those goods ascertained in accordance with the provisions of section 24 and the Second Schedule to the Revenue Act 1898 *[title 14 item 10]*;

“visitor” means a natural person who under the Bermuda Immigration and Protection Act 1956 is not entitled to reside in Bermuda.

[Section 1 “bill of entry” deleted, “customs declaration” and “CPC” inserted, “importer” substituted, and “unit of classification” amended, by 2000:36 s.3 effective 8 November 2000; “value” substituted by 2004:6 s.19 & Sch 3 effective 26 March 2004; “goods” and “bonded warehouse” amended by 2007:13 s.26 effective 29 March 2007; “islander”, “non-resident” and “visitor” inserted by 2009:9 s.2 effective 1 April 2009; “Heading” and “Tariff Code” inserted by 2011 : 10 s. 2 effective 1 April 2011; “special rate” and “standard rate” inserted by 2012 : 5 s. 2 effective 1 April 2012; “special rate” and “standard rate” repealed by 2013 : 8 s. 2 effective 1 April 2013; “for home use” inserted by 2013 : 8 s. 2 effective 1 April 2013; “Heading” and “Tariff Code” repealed and substituted by 2014 : 16 s. 2 effective 1 April 2014]

Import duties

2 (1) The Rules of Interpretation in the First Schedule and Sections I to XXII of that Schedule have effect with respect to the classification of goods and, subject to subsection (2), the assignment of rates of duty.

(2) Except as otherwise provided in this Act or any other enactment, on goods—

- (a) imported into Bermuda; or
- (b) taken out of bond from any bonded warehouse in Bermuda for home use,

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there shall be imposed duty at the rate specified in the First Schedule with respect to goods of that class or description, calculated by reference to the unit for duty specified in relation thereto.

(3) *[Repealed by 2013 : 39 s. 20.]*

[Section 2 amended by 1994:8 effective 23 February 1994; by 1995:12 effective 15 February 1995; subsection (1) substituted and (1A) inserted by 2000:36 s.4 effective 8 November 2000; subsection (2) amended and (3) inserted by 2004:2 s.2 effective 20 February 2004; subsection (1) substituted, (1A) renamed as (2), and (2)-(3) repealed by 2006:5 s.2 effective 1 April 2006; Section 2 amended by 1994:8 effective 23 February 1994; by 1995:12 effective 15 February 1995; subsection (1) substituted and (1A) inserted by 2000:36 s.4 effective 8 November 2000; subsection (2) amended and (3) inserted by 2004:2 s.2 effective 20 February 2004; subsection (1) substituted, (1A) renamed as (2), and (2)-(3) repealed by 2006:5 s.2 effective 1 April 2006; subsection (3) inserted by 2011 : 5 s. 2 effective 1 April 2011; subsections (1) and (2) amended by 2012 : 5 s. 3 effective 1 April 2012; Section 2 subsection (2) repealed and substituted by 2013 : 8 s. 3 effective 1 April 2013; Section 2 subsection (3) repealed by 2013 : 39 s. 20 effective 1 April 2014]

Classification of goods imported by post or courier service

2A (1) A person who imports goods into Bermuda by post or by a courier service licensed under section 6A of the Post Office Act 1900 may declare in a customs declaration that the goods are classified—

- (a) under heading 98.03 in Section XXII of the First Schedule; or
- (b) under any other heading in the First Schedule that applies to them.

(2) The Collector of Customs may reject a customs declaration classifying goods under paragraph (a) or (b) of subsection (1) and require the person to submit a customs declaration classifying the goods under the other paragraph.

[Section 2A inserted by 2006:5 effective 1 April 2006]

Export duties

3 On the goods specified in the Second Schedule there shall be imposed, when such goods are taken out of bond or otherwise exported or transshipped as ships' stores, such duties as are respectively specified in that Schedule.

Refund or drawback of duty

4 (1) The goods specified in the Third Schedule shall not be subject to refund or drawback of duty.

(2) The goods specified in the Fourth Schedule shall be subject to such drawbacks of duty as are specified in that Schedule.

Goods eligible for relief from duty

5 (1) The Fifth Schedule (which provides for relief in respect of the end-use of goods) has effect.

(2) The Sixth Schedule (which provides for relief in respect of the temporary importation of goods) has effect.

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(3) The Seventh Schedule (which provides miscellaneous reliefs in respect of goods brought back to Bermuda and warranty replacements) has effect.

(4) The Collector of Customs may grant an importer (who is an eligible beneficiary) relief from the duty imposed under section 2(2) in accordance with the conditions and criteria and subject to the payment of duty at the applicable rate set out in the Fifth, Sixth or Seventh Schedule.

(5) The Collector of Customs shall refuse to grant an importer relief under subsection (4) if the importation of the goods in respect of which the relief from duty is claimed involves arrangements, made at any time before such relief is granted, that are duty avoidance arrangements.

(6) For the purposes of subsection (5)—

- (a) “arrangements” includes any arrangements, scheme or understanding of any kind, whether or not legally enforceable, involving any number of transactions; and
- (b) arrangements are “duty avoidance arrangements” if the main purpose, or one of the main purposes, of any party to the arrangements, in entering into them, is to obtain relief from duty.

[Section 5 repealed and replaced by 2000:36 s.5 effective 8 November 2000; amended by 2008:5 s.2 effective 1 April 2008; subsection (4) amended by 2012 : 5 s. 4 effective 1 April 2012; subsection (4) amended by 2013 : 8 s. 4 effective 1 April 2013; subsections (5) and (6) inserted by 2013 : 8 s. 4 effective 1 April 2013; subsection (3) repealed by 2013 : 8 s. 12 effective 1 April 2013; subsection (4) amended by 2013 : 8 s. 12 effective 1 April 2013; subsection (3) inserted and subsection (4) amended by 2015 : 7 s. 2 effective 1 April 2015]

Duty free allowance

5A (1) The following goods may be imported into Bermuda by passengers arriving by air or sea without payment of duty—

- (a) accompanied baggage consisting of wearing apparel and personal effects of every passenger, including articles for the personal use of such passengers whilst travelling;
- (b) accompanied alcoholic beverages not exceeding 1 litre of spirits and 1 litre of wine imported by every passenger;
- (c) accompanied tobacco not exceeding 0.5 kg of tobacco, 50 cigars and 200 cigarettes imported by every passenger;
- (d) accompanied goods of tariff code 9802.009 to the value of \$200 imported by an islander;
- (e) accompanied baggage belonging to a person who is a visitor, imported for his personal use for purposes connected with his visit and not for sale or disposal, provided that any such baggage is exported within six months from its importation;
- (f) bona fide baggage imported within a period—

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- (i) starting 90 days before the arrival of the passenger to whom it belongs;
and
- (ii) ending 90 days after the arrival of the passenger,
at the discretion of the Collector of Customs;
- (g) bona fide baggage imported at any time before or after the arrival of the passenger to whom it belongs, at the discretion of the Minister;
- (h) baggage belonging to and accompanying a member of crew of a ship or aircraft temporarily in Bermuda which the Collector of Customs is satisfied is landed for the personal use of such member, provided such baggage is returned to the ship or aircraft on its departure from Bermuda;
- (i) accompanied goods of tariff code 9802.009 to the value of \$50 imported by a visitor.

(1A) *[Repealed by 2012 : 5 s. 5]*

(1B) *[Repealed by 2012 : 5 s. 5]*

(1C) *[Repealed by 2012 : 5 s. 5]*

(2) Bona fide gifts—

- (a) to a value not exceeding \$30; and
- (b) which are imported by post or by courier;

may be imported into Bermuda without payment of duty.

(3) A person who is coming to Bermuda to reside in Bermuda or is ordinarily resident in Bermuda but has been resident away from Bermuda for a period of at least one year and is coming to reside in Bermuda, may import without payment of duty, removable articles intended for the personal or professional use of the person, his or her spouse and dependant children.

(4) Goods which may be imported without payment of duty under subsection (3) shall not include motor vehicles, trailers, motor cycles, pleasure boats, private aircraft, industrial, commercial or agricultural plant or equipment.

(5) The duty-free allowance under subsection (3) shall be subject to the following conditions—

- (a) a person shall not be entitled to allowance in respect of alcoholic beverages or tobacco, in excess of the duty-free allowance under subsection (1)(b) and (c);
- (b) the goods must have been in the possession of the importer for a period of at least six months prior to the day the importer arrives to take residence in Bermuda;
- (c) the goods must arrive in Bermuda within 90 days of the day on which the importer arrives to take residence in Bermuda;

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(d) a person shall not dispose of the goods for gain within six months of the day on which the duty-free allowance is granted.

(6) Goods awarded abroad to any person for distinction in art, literature, science or sport, or for public service, or otherwise in recognition of meritorious achievement or conduct may be imported into Bermuda without payment of duty.

(7) Effects inherited by a person who at the time of death of the deceased, is ordinarily resident in Bermuda and provided that such effects were for the personal use of the deceased, may be imported into Bermuda without payment of duty.

[Section 5A inserted by 2000:36 s.6 effective 8 November 2000; proviso to (1)(d) amended by 2004:2 s.4 effective 20 February 2004; section 5A amended by 2008:5 s.3 effective 1 April 2008; subsections (1A), (1B), and (1C) inserted by 2011 : 39 s. 2 effective 4 November 2011; Section 5A subsection (1)(d) amended, and subsections (1A), (1B) and (1C) repealed by 2012 : 5 s. 5 effective 1 April 2012; Section 5A subsections (6) and (7) inserted by 2013 : 8 s. 5 effective 1 April 2013; subsections (1) and (6) amended by 2014 : 16 s. 3 effective 1 April 2014]

6 *[Repealed]*

[Section 6 repealed by 2009:9 s.3 effective 1 April 2009]

Payment of duties

7 (1) Save as otherwise provided by or under this Act or the Revenue Act 1898, duty shall be payable by the importer or consignee of goods to the Collector of Customs—

- (a) where a customs declaration is delivered in respect of goods imported into, removed from a bonded warehouse in, or exported from, Bermuda, at the time of the delivery of the customs declaration in respect of those goods;
- (b) where goods are entered pursuant to simplified procedures, at such time as the Collector of Customs may require;
- (c) in any other case, at the time of the importation of the goods.

(2) In this section, “simplified procedures” has the same meaning as in section 35A of the Revenue Act 1898.

[Section 7 repealed and replaced by 2000:36 s.7 effective 8 November 2000]

Proportional application

8 In every case in which a specific import duty is imposed according to a specific quantity the duty shall be deemed to apply in the same proportion to any greater or less quantity.

9 *[Section 9 repealed by 2000:36 s.8 effective 8 November 2000]*

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Saving for NATO Status of Forces Agreement

10 This Act shall be construed subject to Articles XI, XII and XIII of the Agreement regarding the Status of Forces of Parties to the North Atlantic Treaty, London, 19 June 1951, as applied to Bermuda and the Visiting Forces Act (Application to Bermuda) Order 2001.

[Section 10 substituted by 2002:6 s.4 & Sch 3 effective 18 June 2002]

Surcharge on duty suspension goods

11 (1) Upon the discharge of duty suspension arrangements, in addition to any duty that may be due, there shall be imposed a surcharge of duty in accordance with this section.

(2) The surcharge imposed upon goods (except goods of Headings 27.09, 27.10 and 27.11) taken out of bond from any bonded warehouse in Bermuda shall be three and three quarters per centum [3.75%] of the duty imposed under sections 2(2) and 3.

(3) The surcharge imposed upon goods taken out of a bonded warehouse under subsection (2) shall be applied to—

- (a) goods removed from a regulated shop under the Airport (Duty Free Sales) Act 1997 for export; and
- (b) precious stones taken out of storage in bond under the Bonding of Precious Stones Act 1952.

(4) The surcharge imposed upon goods discharged from CPC 5000 of the Sixth Schedule (business temporary importation relief), shall be calculated as follows—

- (a) if the goods are discharged by re-export, then the surcharge shall be equal to the amount of duty at the time of discharge that would have been payable on identical goods with the deemed customs value entered for home use;
- (b) if the goods are discharged by diversion to home use at an applicable rate determined by section 2 and the Fifth Schedule, then the surcharge shall be equal to the amount of duty payable at the applicable rate on identical goods with the deemed customs value.

(5) All provisions of law relating to the circumstances in which duty is imposed, the payment and collection thereof, the refund, drawback, penalties and legal proceedings in respect thereof shall apply in like manner to the surcharge imposed under this section.

(5A) The surcharge imposed on goods entered pursuant to section 18 of the Revenue Act 1898 (packages with unknown contents) shall be two per centum (2%) of the duty imposed under section 2(2).

(6) In this section—

“deemed customs value” means—

- (a) the actual lease payment for the goods for the period between the date of importation and the date of discharge; or

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- (b) if there is no actual lease payment, a deemed lease payment representing the open market cost in Bermuda of leasing the goods for the same period; or
- (c) if there is neither an actual lease payment nor an open market cost in Bermuda of leasing the goods then, by reference to the same period, the deemed customs value shall be 10 per centum per annum of the customs value of the goods ascertained in accordance with the Second Schedule to the Revenue Act 1898;

“discharge” means—

- (a) proper entry for home use;
- (b) diversion to home use; and
- (c) export;

“duty suspension arrangements” means arrangements for the purposes of—

- (a) bonded warehousing under the Revenue Act 1898;
- (b) storage in a regulated shop under the Airport (Duty Free Sales) Act 1997;
- (c) storage in bond under the Bonding of Precious Stones Act 1952;
- (d) temporary importation under the Sixth Schedule; and
- (e) release of goods before entry and payment of duty under section 18 of the Revenue Act 1898.

[Section 11 amended by 1994:10 effective 14 February 1994; subsection (1) amended by 2000:36 s.9 effective 8 November 2000; Section 11 repealed and substituted by 2013 : 8 s. 6 effective 1 April 2013, except subsection (4) and definition of "deemed customs value" effective 1 April 2014; Section 11 subsection (5A) inserted and subsection (6) amended by 2015 : 7 s. 3 effective 1 April 2015]

Minister of Finance may vary Schedules by order

12 (1) Subject to subsection (2), the Minister may by order published in the Gazette amend the First, Second, Fourth, Fifth, Sixth or Seventh Schedules.

(2) Nothing in this section shall authorize the Minister to impose or cancel any duty or vary the rate of any duty.

(3) In this section “amend” means revoke, replace, add to or vary.

[Section 12 amended by 1994:10 effective 14 February 1994; subsection (1) amended by 2000:36 s.10 effective 8 November 2000; subsection (1) amended by 2011 : 5 s. 3 effective 1 April 2011; subsection (1) amended by 2013 : 8 s. 12 effective 1 April 2013; subsection (1) amended by 2013 : 39 s. 20 effective 1 April 2014; subsection (1) amended by 2015 : 7 s. 2 effective 1 April 2015]

Obligation to pay duty upon diversion

13 (1) This section applies to any goods imported into Bermuda or taken out of a bonded warehouse (removed) in respect of which relief was granted pursuant to the Fifth, Sixth or Seventh Schedule.

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(2) A person who has imported such goods into Bermuda or removed such goods may apply to the Collector of Customs for approval to use or dispose of the goods in a manner not authorized by the conditions of their importation or removal.

(3) The Collector of Customs may, upon payment of the outstanding duty, approve such use or disposal.

(4) Subsections (3), (4), (5) and (6) of section 89 of the Revenue Act 1898 shall apply, with the necessary changes, in relation to the use or disposal of goods in a manner not authorized by any condition of their importation or removal without the approval of the Collector of Customs (“unauthorized disposal”) as they apply in relation to the use or disposal of restricted goods imported free of duty in contravention of section 89 of that Act.

(5) In this section—

- (a) “duty” includes any surcharge;
- (b) “outstanding duty” means the amount of duty payable in respect of goods chargeable to duty less any duty already paid in respect of the goods;
- (c) where the goods in question are goods in respect of which duty is charged on the basis of their value, the value of the goods shall be taken to be that value which the Collector of Customs places on goods which in his opinion are goods of a description, age and condition similar to the description, age and condition of the goods in question at the time the disposal or use is made; and
- (d) the rate of duty to be taken for the purposes of calculating outstanding duty is the rate in force at the time the disposal or use is made.

[Section 13 repealed and replaced by 2000:36 s.11 effective 8 November 2000; amended by 2008:5 s.4 effective 1 April 2008; subsection (1) amended by 2013 : 8 s. 12 effective 1 April 2013; subsection (1) amended by 2015 : 7 s. 2 effective 1 April 2015]

13A *[Section 13A amended by 1990:14 effective 21 February 1990; by 1994:10 effective 14 February 1994; repealed by 2000:36 s.12(1) effective 8 November 2000 subject to saving in s.12(2)]*

Repeals

14 *[omitted]*

Commencement

15 *[omitted]*

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FIRST SCHEDULE

(Section 2(1))

BERMUDA NOMENCLATURE AND IMPORT DUTIES

[First Schedule is published separately and is located at: www.customs.gov.bm]

[First Schedule repealed and replaced by 2000:36 effective 8 November 2000; amended by 2001:3 effective 16 February 2001; by 2002:5 effective 15 February 2002; by 2004:2 effective 20 February 2004; by 2005:4 effective 1 April 2005; by 2006:5 effective 1 April 2006; by 2006:36 effective 1 January 2007; repealed and replaced by 2007:9 effective 29 March 2007; amended by 2008:5 s. 5 effective 1 April 2008; repealed and replaced by 2009:9 s. 4 effective 1 April 2009; repealed and replaced by 2010 : 27 s. 2 effective 29 March 2010; amended by 2011 : 10 s. 3 effective 1 April 2011; amended by 2011 : 39 s. 3 effective 4 November 2011; First Schedule repealed and replaced by 2012 : 5 s. 6 effective 1 April 2012; First Schedule repealed and replaced by 2013 : 8 s. 7 effective 1 April 2013; First Schedule repealed and replaced by 2014 : 16 s. 4 effective 1 April 2014; amended by 2015 : 7 s. 4 and 5 effective 1 April 2015]

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SECOND SCHEDULE

(Section 3)

EXPORT DUTIES

[Second Schedule is published separately and is located at: www.customs.gov.bm]

[Second Schedule repealed and replaced by 2000 : 36 effective 8 November 2000; amended by 2012 : 5 s. 7 effective 1 April 2012; amended by 2013 : 8 s. 8 effective 1 April 2013; amended by 2014 : 16 s. 5 effective 1 April 2014]

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THIRD SCHEDULE

(Section 4(1))

GOODS NOT SUBJECT TO REFUND OR DRAWBACK OF DUTY

[Third Schedule is published separately and is located at: www.customs.gov.bm]

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FOURTH SCHEDULE

(Section 4(2))

DRAWBACK IN RELATION TO IMPORTED GOODS INCORPORATED IN GOODS
MANUFACTURED IN BERMUDA

[Fourth Schedule is published separately and is located at: www.customs.gov.bm]

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FIFTH SCHEDULE

(Section 5(1))

END-USE RELIEF

[Fifth Schedule is published separately and is located at: www.customs.gov.bm]

[Fifth Schedule repealed and replaced by 2000:36 s.15 effective 8 November 2000; amended by 2001:3 s.4 effective 16 February 2001; by 2002:5 s.4 effective 15 February 2002; by 2002:18 effective 1 April 2002; by 2003:4 s.3 effective 1 April 2003; by 2004:2 s.6 effective 20 February 2004; by 2004:39 s.3 effective 21 December 2004; by 2005:4 s.3 effective 1 April 2005; by 2006:5 s.5 effective 1 April 2006; by 2007:9 s.3 effective 29 March 2007; by 2008:5 s.6 effective 1 April 2008; by 2009:9 s.5 effective 1 April 2009; by 2010 : 27 s.3 effective 29 March 2010; by 2010 : 34 s. 7 effective 29 October 2010; amended by 2011 : 5 s. 4 effective 1 April 2011; amended by 2011 : 10 s. 4 effective 1 April 2011; amended by 2012 : 5 s. 8 effective 1 April 2012; amended by 2013 : 8 s. 9 and s. 10 effective 1 April 2013, except s.10(1)(b) effective 1 April 2014; amended by 2013 : 37 s. 2 and s. 3 effective 15 October 2013; amended by 2013 : 45 s. 2 effective 24 December 2013; amended by 2014 : 16 s. 6 and s. 8 effective 1 April 2014; amended by 2015 : 7 s. 6 - 9 effective 1 April 2015]

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SIXTH SCHEDULE

(Section 5(2))

TEMPORARY IMPORTATION RELIEF

[Sixth Schedule is published separately and is located at: www.customs.gov.bm]

[Sixth Schedule inserted by 2000:36 s. 16 effective 8 November 2000; amended by 2003:4 s.4 effective 1 April 2003; amended by 2007:9 s.4 effective 29 March 2007; amended by 2009: 9 s.6 effective 1 April 2009; amended by 2011 : 5 s. 5 effective 1 April 2011; amended by 2011 : 10 s. 5 effective 1 April 2011; amended by 2012 : 5 s. 9 effective 1 April 2012; amended by 2013 : 8 s. 9 effective 1 April 2013 and s.11 effective 1 April 2014; amended by 2014 : 16 s. 7 and s. 8 effective 1 April 2014; amended by 2015 : 7 s. 10 effective 1 April 2015]

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SEVENTH SCHEDULE

(Section 5(3))

RELIEF FOR MISCELLANEOUS GOODS

[Seventh Schedule is published separately and is located at: www.customs.gov.bm]

[Seventh Schedule inserted by 2000 : 36 effective 8 November 2000; amended by 2005 : 4 effective 1 April 2005; amended by 2009 : 9 s. 7 effective 1 April 2009; amended by 2011 : 10 s. 6 effective 1 April 2011; repealed by 2013 : 8 s. 12 effective 1 April 2013; inserted by 2015 : 7 s. 11 effective 1 April 2015]

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EIGHTH SCHEDULE
GOODS EXEMPT FROM DUTY IN LIEU OF WHARFAGE

[Repealed by 2013 : 39 s. 20. effective 1 April 2014]

[Eighth Schedule inserted by 2011 : 5 s. 6 effective 1 April 2011; amended by 2012 : 5 s. 10 effective 1 April 2012; amended by 2013 : 8 s. 13 effective 1 April 2013; repealed by 2013 : 39 s. 20 effective 1 April 2014]

[Assent Date: 10 July 1970]

[This Act was brought into operation on 1 August 1970]

[Amended by:

1971 : 39
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