

BILL No. 7 of 1993

Tuesday, 16th March 1993

**PARLIAMENT OFFICE,
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Georgetown,
Guyana.**

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The following Bill which will be introduced in the National Assembly is published for general information.

E. A. Narain,
Clerk of the National Assembly.



GUYANA

BILL No. 7 of 1993

CUSTOMS (AMENDMENT) BILL 1993

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Amendment of section 2 of the Principal Act.
3. Amendment of section 199 of the Principal Act.

4. Amendment of section 200 of the Principal Act.
5. Repeal of section 201 of the Principal Act.
6. Amendment of section 204 of the Principal Act.
7. Repeal and re-enactment of section 205 of the Principal Act.
8. Amendment of section 206 of the Principal Act.
9. Amendment of section 207 of the Principal Act.
10. Amendment of section 208 of the Principal Act.
11. Amendment of section 211 of the Principal Act.
12. Amendment of section 214 of the Principal Act.
13. Amendment of section 215 of the Principal Act.
14. Amendment of section 216 of the Principal Act.
15. Repeal and re-enactment of section 217 of the Principal Act.
16. Amendment of section 218 of the Principal Act.
17. Amendment of section 219 of the Principal Act.
18. Amendment of section 221 of the Principal Act.
19. Amendment of section 222 of the Principal Act.
20. Repeal and re-enactment of section 224 of the Principal Act.
21. Amendment of section 256 of the Principal Act.
22. Amendment of section 261 of the Principal Act.
23. Amendment of section 262 of the Principal Act.
24. Amendment of section 263 of the Principal Act.

A BILL

Intituled

AN ACT to amend the Customs Act.

A.D. 1993

Enacted by the Parliament of Guyana:—

Short title.

1. This Act, which amends the Customs Act, may be cited as the Customs (Amendment) Act 1993.

Cap: 82:01

Amendment
of section
2 of the
principal
Act.

2. Section 2 of the Principal Act is hereby amended by the insertion after the definition of "goods", of the following definition.

"Government Analyst" includes the Assistant Government Analyst and any scientific officer of the Analyst Department;"

Amendment
of section
199 of the
principal
Act.

3. Section 199 of the Principal Act is hereby amended in the following respects —

- (a) by the substitution for the word "is", of the word "or" after the word "found" where it occurs for the second time; and

- (b) by the substitution for the words "one thousand dollars", of the words "not less than one thousand dollars nor more than five thousand dollars".

4. Section 200 of the Principal Act is hereby amended in the following respects —

Amendment of section 200 of the Principal Act.

- (a) by the substitution for the marginal note, thereto, of the following marginal note —
"Smuggling aircraft and ships forfeited."; and
- (b) by the substitution for the words "Every ship of less than two hundred and fifty tons burden", of the words "Every aircraft or ship".

5. Section 201 of the Principal Act is hereby repealed.

Repeal of section 210 of the Principal Act.

6. Section 204 of the Principal Act is hereby amended in the following respects —

Amendment of section 204 of the Principal Act.

- (a) in subsection (2), by the substitution for the words "three years", of the words "five years";
- (b) in subsection (4), by the substitution for the words "shall be liable for each such offence to a fine of one thousand dollars", of the words "shall be liable, on summary conviction, for each such offence to a fine of not less than five thousand dollars nor more than ten thousand dollars together with imprisonment for two years"; and
- (c) in subsection (5), by the substitution for the words "three months", of the words "not less than three months nor more than one year".

7. Section 205 of the Principal Act is hereby repealed and the following section substituted therefor —

Repeal and re-enactment of section 205 of the Principal Act.

"Penalty for assembling to evade, or having so assembled evading, customs laws.

205. (1) All persons to the number of three or more who shall assemble for the purpose of evading any of the provisions of the customs laws shall each be guilty of an offence and shall each be liable on summary conviction to imprisonment for not less than twelve months nor more than three years:

Provided that the court may for special reasons to be recorded in writing award a sentence of imprisonment for a shorter term than twelve months.

(2) All person to the number of three or more who having assembled for the purpose of evading any of the provisions of the customs laws, evade any such provision shall each be guilty of an offence and shall each be liable on summary conviction to imprisonment for not less than twelve months nor more than three years:

Provided that the court may for special reasons to be recorded in writing award a sentence of imprisonment for a shorter term than twelve months."

Amendment
of section
206 of the
Principal
Act.

8. Section 206 (1) of the Principal Act is hereby amended by the substitution for the words "twelve months", of the words "not less than twelve months nor more than five years".

Amendment
of section
207 of the
Principal
Act.

9. Section 207 of the Principal Act is hereby amended by the substitution for the words "shall be liable to a fine of five hundred dollars", of the words "shall be liable on summary conviction to a fine of ten thousand dollars together with imprisonment for three years".

Amendment
of section
208 of the
Principal
Act.

10. Section 208 of the Principal Act is hereby amended by the substitution for the words "two hundred dollars", of the words "five thousand dollars".

Amendment
of section
211 of the
Principal
Act.

11. Section 211 of the Principal Act is hereby amended by the substitution for the words "one thousand dollars", of the words "not less than five thousand dollars nor more than ten thousand dollars".

Amendment
of section
214 of the
Principal
Act.

12. Section 214 of the Principal Act is hereby amended by the Substitution for the words "shall be liable to a fine of five hundred dollars", of the words "shall be liable on summary conviction to a fine of ten thousand dollars together with imprisonment for three years".

Amendment
of section
215 of the
Principal
Act.

13. Section 215 of the Principal Act is hereby amended by the substitution for the words "one thousand five hundred dollars and to imprisonment for a term of three months", of the words "ten thousand dollars together with imprisonment for three years".

14. Section 216 of the Principal Act is hereby amended by the substitution for the words "one thousand dollars", of the words "one thousand dollars", of the words "ten thousand dollars".

Amendment of section 216 of the principal Act.

15. Section 217 of the Principal Act is hereby repealed and the following section substituted therefor —

Repeal and re-enactment of section 217 of the Principal Act.

"Penalty for false declaration, etc.

217 (1) Any person who, in any matter relating to the customs, or under the control or management of the Comptroller —

- (a) makes and subscribes, or causes to be made and subscribed, any false declaration; or
- (b) makes or signs or causes to be made or signed, any declaration, certificate or other instrument required to be verified by signature only, the same being false in any particular; or
- (c) makes or signs any declaration made for the consideration of any officer on any application presented to him, the same being untrue in any particular; or
- (d) when required by the customs laws to answer questions put to him by any officer, refuses to answer such questions or answers any such questions untruly,

shall be liable on summary conviction to a fine of twenty five thousand dollars together with imprisonment for three years.

(2) Any person who, in any matter relating to the customs, or under the control or management of the Comptroller —

- (a) counterfeits, falsifies, or wilfully uses when counterfeited or falsified, any document required by the customs laws, or by or under the directions of any officer, or any instrument used in the transaction of any business or matter relating to customs; or

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- (b) alters any document or instrument after the same has been officially issued; or
- (c) counterfeits the seal, signature, initials or other mark of or used by any officer for the verification of any such document or instrument, or for the security of goods, or any other purpose in the conduct of business relating to the customs, or under the control or management of the Comptroller; or
- (d) on any document or instrument required for the purpose of the customs laws, counterfeits or imitates the seal, signature, initials or other mark of or made use of by any other person whatsoever, whether with or without the consent of such person,

shall be liable on summary conviction to a fine of ten thousand dollars together with imprisonment for not less than twelve months nor more than three years."

Amendment
of section
218 of the
Principal
Act.

16. Section 218 of the Principal Act is hereby amended by the substitution for the words "one thousand dollars", of the words "ten thousand dollars".

Amendment
of section
219 of the
Principal
Act.

17. Section 219 of the Principal Act is hereby amended in the following respects —

- (a) by the insertion after the word "goods", wherever it appears, of the words "or thing";
- (b) by the substitution for the words "one thousand dollars", of the words "ten thousand dollars"; and
- (c) by the deletion of the words "contained in such package".

Amendment
of section
221 of the
Principal
Act.

18. Section 221 of the Principal Act is hereby amended by the substitution for the words "shall be liable for every offence to a fine of one thousand dollars", of the words "shall be liable

on summary conviction, for every such offence, to a fine of ten thousand dollars together with imprisonment for three years".

19. Section 222 of the Principal Act is hereby amended by the substitution for the words "shall be liable to a fine of five thousand dollars" in both the places where they occur, of the words "shall be liable on summary conviction to a fine of ten thousand dollars together with imprisonment for three years".

Amendment of section 222 of the Principal Act.

20. Section 224 of the Principal Act is hereby repealed and the following section substituted therefor —

Repeal and re-enactment of section 224 of the Principal Act.

"General provisions as to forfeiture.

224. (1) All aircraft, ships and carriages, together with all animals and things made use of in the importation, attempted importation, landing, removal, conveyance, exportation or attempted exportation of any uncustomed, prohibited or restricted goods, or any goods liable to forfeiture under the customs laws shall be forfeited.

(2) All aircraft, ships and carriages, together with all animals and things, and goods liable to forfeiture, and all persons liable to be detained for any offence, under the customs laws or under any law, whereby officers are authorised to make seizures or detentions, shall or may be seized or detained in any place by any person duly employed for the prevention of smuggling or by any person having authority from the Comptroller to seize or detain the same.

(3) All aircraft, ships and carriages, together with all animals and things, and goods seized under subsection (2) shall forthwith be delivered into the care of the Comptroller.

(4) The forfeiture of any aircraft, ship, carriage, animal or thing shall be deemed to include the furniture, tackle, harness and apparel thereof, and the forfeiture of any goods shall be deemed to include the package in which the same are found and all the contents thereof."

21. Section 256 of the Principal Act is hereby amended by the substitution for the words "one year", of the words "two years".

Amendment of section 256 of the Principal Act.

22. Section 261 (1) of the Principal Act is hereby amended by the substitution for the words "ship or goods" wherever they appear, of the words "ship, goods or things".

Amendment of section 261 of the Principal Act.

23. Section 262 of the Principal Act is hereby amended by the substitution for the words "ship or goods", of the words "ship, goods or things", and for the word "things", of the words "animal, carriage, aircraft, ship, goods or things".

Amendment of section 262 of the Principal Act.

24. Section 263 of the Principal Act is hereby amended by the insertion after the word "prosecution" of the words "or proceeding".

Amendment of section 263 of the Principal Act.

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Customs Act, Cap. 82:01, in the manner described hereunder.

Clause 2 amends section 2 of the Act by inserting a definition of Government Analyst which includes the Assistant Government Analyst or any scientific officer of the Analyst Department.

Clauses 3, 6, 7, 8, 9 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 21 amend the sections of the Act referred to in the said clauses by increasing the existing penalties of fines and imprisonment so as to serve as a deterrent to the commission of the offences described in the said sections. In addition, the following other amendments have been made —

- (a) clause 7 amends section 205 to extend the offences of assembling to evade the customs laws to include the actual evasion of the laws;
- (b) clause 15 amends section 217 by dividing the several acts which constitute the offence of false declaration into two categories and providing separate penalties for each category; and
- (c) clause 17 amends section 219 by extending the offence relating to concealed goods to things other than goods.

Clause 4 amends section 200 by extending the forfeiture provision relating to ships engaged in smuggling to aircraft so engaged.

Clause 20 amends the forfeiture provisions of section 224 to make them explicit.

Clauses 22 and 23 of the Bill amend sections 261 and 262 dealing with claims to seized goods by repealing and re-enacting section 261 (1) and 262 so as to extend the provisions thereof to things other than goods.

Clause 24 of the Bill amends section 263 by extending the onus of proof in prosecution cases to other proceedings.

Asgar Ally,
Senior Minister of Finance.