

**PARLIAMENT OFFICE,
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The following Bill which has been introduced in the National Assembly is published for general information.

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



GUYANA

BILL NO. 8 of 1986

**EXPORT AND IMPORT (SPECIAL PROVISIONS)
BILL 1986**

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A BILL

Intituled

AN ACT to make certain special provisions of a temporary nature in respect of the export and import of goods from and into Guyana, including the payment of export and import duties in certain cases in specified foreign currency, for the purpose of increasing the foreign exchange earnings of the Government.

Enacted by the Parliament of Guyana:—

A.D. 1986

PART I

PRELIMINARY

1. (1) This Act may be cited as the Export and Import (Special Provisions) Act 1986. **Short title, commencement and duration.**

(2) Sections 10 and 11 shall come into operation on such date as may be specified by the Minister by order and different dates may be specified with reference to either of those sections.

(3) No provision of this Act shall remain in operation after the expiry of a period of two years with effect from the date on which this section comes into operation:

Provided that the National Assembly may by resolution passed before the expiry of the aforesaid period of two years or before the expiry of any further period for which that period is extended under this proviso, extend the duration of the operation of this Act for such further period, not exceeding one year on each occasion, so, however, that the total period of operation of this Act shall not exceed five years with effect from the date on which this section comes into operation.

(4) Upon the cesser of operation of this Act, section 54 of the Interpretation and General Clauses Act shall apply in relation thereto as if this Act were repealed by another written law. **Cap. 2:01**

2. In this Act —

- (a) “Competent Authority” mean that Competent Authority appointed under the Trade Act; **Interpretation, Cap. 91:01**
- (b) “export duty” means any export duty of customs imposed by or under the customs laws;
- (c) “import duty” means any import duty of customs imposed by or under the customs laws;

Cap. 80:02

(d) "shipping document" includes a bill of lading, invoice, airway bill, delivery order, certificate of origin or other similar document;

(e) "tax" means consumption tax chargeable by virtue of the Consumption Tax Act;

(f) reference to consulate of Guyana in any country shall be deemed to include, where there are more than one office of consular officers of Guyana in that country, references to each of those offices;

Cap. 82:01

(g) expressions used, and not defined, in this Act but defined in the Customs Act shall have the meanings assigned to them in the Customs Act.

PART II

EXPORT

Export duty upon certain goods to be paid in specified foreign currency.
Cap. 82:01
Schedule

3. Notwithstanding anything contained in section 28 of the Customs Act export duty imposed upon the goods specified in the Schedule shall be paid and received in such currency, not being Guyana dollars (hereinafter in this part and the Schedule referred to as specified foreign currency) as may be specified by the Minister by notification in the *Gazette* and the Minister may specify different currencies in relation to goods exported to different countries.

Amendment of Schedule.

4. The Minister may, by order, which shall be subject to negative resolution of the National Assembly, amend the Schedule.

Credit for export duty paid in specified foreign currency.

Cap. 86:01

5. Where export duty imposed upon any goods is liable to be, and has been, paid in specified foreign currency under section 3, credit shall be given to the sum so paid in specified foreign currency, in computing the amount to be sold in exchange for Guyana dollars under section 25 (1) (c) of the Exchange Control Act, if the Comptroller certifies that he is satisfied in the case of the said goods as to the matters specified in section 25 (1) (b) of that Act.

Validation.

6. All sums paid or recovered by way of export duty in any currency, other than Guyana dollars, before the commencement of this Act, shall be deemed to be, and always to have been, validly paid or recovered.

PART III

IMPORT

Import duty and tax to be paid in specified foreign currency in certain circumstances.
Cap. 82:01

7. (1) Notwithstanding anything contained in section 28 of the Customs Act or any other written law, import duty imposed upon any goods imported into Guyana and tax chargeable thereon shall be

paid in such currency, not being Guyana dollars, (hereafter in this Part referred to as specified foreign currency) as may be specified by the Minister by notification in the *Gazette* if —

- (a) the goods were gifted to the consignee or importer by any person (whether living outside or in Guyana); or
- (b) the goods are of such category or are being imported into Guyana in such circumstances of for such purpose as may be specified by the Minister by notification in the the *Gazette*.

(2) For the purposes of subsection (1) the Minister may specify different currencies, not being Guyana dollars, in relation to goods imported from different countries.

(3) Where the price of any goods consigned to any person in Guyana or imported by any person was paid from money received from any other person by way of gift, after the date on which the Bill for the enactment of this Act is read a first time in the National Assembly, for the purposes of this Act that other person shall be deemed to have gifted the goods to the consignee or the importer, as the case may be.

(4) Where any person living in Guyana has purchased goods outside Guyana, the burden of proving, for the purposes of this Act, that the price of the goods was paid by him from money belonging to him, and that the money was not received by him by way of gift after the date on which the Bill for the enactment of this Act is read a first time in the National Assembly, shall be on him.

(5) The Minister may by notification in the *Gazette* exempt subject to such conditions as he may specify, any consignment of goods or consignment of any class of goods from the provisions of subsection (1) (a), having regard to its value, the nature of the goods, the objectives of the institution or organisation importing the goods or the purpose for which the goods are being imported.

(6) Without prejudice to the provisions of subsection (5), nothing in this section shall apply to goods, in respect of which, before the date on which the Bill for the enactment of this Act is read a first time in the National Assembly —

- (a) a licence for import has been granted under the Cap. 91:01 Trade Act; and
- (b) the person who is gifting the goods to the person in Guyana or the person who is importing the

goods into Guyana, as the case may be, has purchased the goods or has placed a firm order for the purchase of the goods and paid the purchase price thereof.

Exemption
from pro-
secution.
Cap. 82:01
Cap. 86:01

8. Notwithstanding anything contained in the Customs Act or the Exchange Control Act, no person shall be charged with, or punished for, any offence under either of those Acts in respect of specified foreign currency used for the payment of import duty or tax under section 7.

Legalization
of shipping
documents.

9. (1) Each shipping document, in respect of each consignment of goods to any person in Guyana from such countries, and exceeding in value such amount, as may be specified by the Minister by notification in the *Gazette*, shall bear a certificate of legalization, in such form as may be prescribed by the Minister by regulations, by the consular officer of the consulate of Guyana in any such country from where the goods are shipped to Guyana.

(2) The consular officer shall charge such fees as may be specified by the Minister by notification in the *Gazette* for the legalization referred to in subsection (1) of any shipping document and the said fees shall be payable in the currency of the country in which the consulate of Guyana is situated.

Cap. 91:01

(3) Where a licence under the Trade Act is required for the import of any goods, no certification, as required by subsection (1), shall be made, on any shipping document in respect of any such goods, by a consular officer of a consulate of Guyana unless he is satisfied that a licence has been granted by the authority competent to grant the same under the Trade Act or this Act for the import of the aforesaid goods.

(4) This section shall not apply to imports by any department or office of the Government.

Import duty,
etc., may be
paid through
Guyana con-
sulate
abroad.

10. All duties, rates or charges payable under the customs laws upon any goods imported and tax chargeable thereon may be paid through the consulate of Guyana, in the country from where the goods are being consigned to Guyana, in specified foreign currency.

Applying for
licence and
payment of
stamp duty,
etc., at Guy-
ana consulate
abroad
Cap. 91:01

11. (1) Notwithstanding anything contained in the Trade Act, an application for a licence under that Act for the import of any goods into Guyana may be made, by the person consigning the goods to Guyana, to such consular officer, of any consulate of Guyana in a country outside Guyana, as may be authorised for that purpose by the Competent Authority and that consular officer shall have in relation to the application and the import of the goods into Guyana all the functions of the Competent Authority.

(2) Where an application for a licence for the import of any good is made under subsection (1) to a consular officer of the consulate of Guyana in any country outside Guyana, the stamp duty payable under the Tax Act upon the licence, and any fees or other charge payable in respect of the application for the licence or the licence under any written law, shall be paid in the currency of the country in which that consulate of Guyana is situated. **Cap. 80:01**

(3) Notwithstanding anything contained in any other law for the time being in force, the consignee of any goods, an application for a licence for the import of which has been made under subsection (1), shall, if he receives the goods, be bound by the conditions subject to which the licence is granted.

PART IV

MISCELLANEOUS

12. Where any duty, rate, charge, tax stamp duty or fees payable under any written law is payable under this Act in any currency other than Guyana dollars, and such duty, rate, charge, tax, stamp duty or fees is fixed by or under any written law in Guyana dollars, the rate of exchange at which such duty, rate, charge, tax, stamp duty or fees shall be converted into the aforesaid currency in which it is required to be paid shall be the rate of exchange fixed by the Minister from time to time for that purpose and in force on the date on which the duty, rate, charge, tax, stamp duty or fee, as the case may be, first becomes payable in accordance with the written law **Rate of exchange**

13. Subject to the other provisions of this Act, a customs officer shall have, and may exercise, the same powers under this Act as he has, and may exercise, under the Consumption Tax Act or the Customs Act. **Powers of customs officers. Cap. 80:02 Cap. 82:01**

14. (1) Where any entry or statement in a shipping document legalized under section 9 or in an application for a licence for the import of any goods under section 11 is false or misleading in any particular, the goods to which that shipping document or the application for licence relates shall be liable to be forfeited. **Penalties.**

(2) Any goods imported and in respect of which a contravention of any provision of this Act has been committed shall be liable to be forfeited.

(3) Any goods liable to be forfeited under this section may be seized by any customs officer.

Cap. 82:01

(4) Sections 225, 226, 228, 229, 253, 259 to 263 (inclusive) and 268 of the Customs Act shall *mutatis mutandis* apply to, and in relation to, seizure, forfeiture, condemnation and disposal of any goods liable for forfeiture or forfeited, and to restoration of goods seized, hereunder.

(5) It shall be lawful for the Comptroller to release any goods seized, and liable for forfeiture, under this section on receipt on behalf of the State, in addition to the import duty, rate, charge, stamp duty, fees and tax payable upon the goods or in relation to the import thereof in the currency in which they are payable, of such compensation not exceeding the value of the goods as he deems reasonable having regard to the circumstances of the case:

Provided that such compensation shall be accepted only where the owner of the goods has expressed his willingness in the form specified by the Comptroller that the offence shall be so dealt with.

Provisions in addition to, and not in derogation of, Consumption Tax Act and Customs Act.
Cap. 80:02
Cap. 82:01

15. The provisions of this Act shall be addition to, and not in derogation of, the provisions of the Consumption Tax Act and the Customs Act:

Provided that if there is any inconsistency between the provisions of this Act and of the Consumption Tax Act or the Customs Act, the provisions of this Act shall prevail.

Power to make regulations.

16. The Minister may make regulations for carrying out the purposes of this Act and, without prejudice to the generality of the foregoing, such regulations may, in particular, prescribe the form of the certificate of legalization referred to in section 9(1).

SCHEDULE

Goods, the export duty upon which shall be paid in specified foreign currency

Shrimp

EXPLANATORY MEMORANDUM

This Bill seeks to make certain special provisions of a temporary nature to achieve the following objectives —

- (1) to require that export duties of customs upon goods specified in the Schedule to the Bill and import duties of customs and consumption tax

upon goods imported into Guyana as gifts, and goods of notified category or imported into Guyana in notified circumstances or for notified purposes, shall be paid in specified foreign currency. (See clauses 3 and 7.). Provision is also sought to be made to empower the Minister to exempt certain gifts from the requirement of payment of import duty and consumption tax in specified foreign currency. (Clauses 7(5)). As proposed in the Bill export duty paid in specified foreign currency shall be given credit in computing the amount of foreign currency required to be sold by an exporter in exchange for Guyana dollars under section 25(1)(c) of the Exchange Control Act, Cap. 86:01, if the Comptroller of Customs is satisfied that the price, of the exported goods, brought into Guyana is in all circumstances satisfactory in the national interest. (Clause 5). Provision is also proposed to be made that no person shall be charge with, or punished for, any offence under the Customs Act, Cap. 82:01. or the Exchange Control Act, Cap. 86:01, in respect of any specified foreign currency used for the payment of import duty and consumption tax upon any goods under clause 7. (Clause 8);

- (2) to make provision requiring legalization by a consular officer of Guyana consulate, of each shipping document relating to each consignment of goods, to any person in Guyana, of value exceeding specified amount and from any specified country, and for the payment of fees for that purpose in specified foreign currency. (Clause 9);
- (3) to make provision to enable payment of import duty and consumption tax at Guyana consulates and to obtain import licences from those offices; (Clauses 10 and 11);
- (4) to provide that the exchange rate for the purpose of determining any amount payable in specified foreign currency under the Bill shall be the rate specified by the Minister and in force on the date on which the amount first becomes payable; (Clause 12); and
- (5) to make provision for the forfeiture of goods as penalty for contravention of any provision of the Bill and for making false or misleading entry or statement in shipping document or application for import licence.

Carl B. Greenidge,
Minister of Finance.