

CUSTOMS ACT 1986  
(ACT NO. 37 OF 2017)

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**ACT NO. 37 OF 2017**

I assent.

J. K. KONROTE  
President

[14 July 2017]

**AN ACT****TO AMEND THE CUSTOMS ACT 1986**

ENACTED by the Parliament of the Republic of Fiji—

*Short title and commencement*

- 1.**—(1) This Act may be cited as the Customs (Budget Amendment) Act 2017.
- (2) This Act comes into force on 30 June 2017.
- (3) In this Act, the Customs Act 1986 is referred to as the “Principal Act”.

*Section 11A amended*

**2.** Section 11A(5) of the Principal Act is amended by deleting “\$10,000” and substituting “\$25,000 or to imprisonment for a term not exceeding 10 years, or both”.

*Section 13 amended*

**3.** Section 13 of the Principal Act is amended by deleting “\$20,000 or to imprisonment for 4 years or to both such fine and imprisonment” and substituting “\$25,000 or to imprisonment for a term not exceeding 10 years, or both”.

*Section 14 amended*

**4.** Section 14(4) of the Principal Act is amended by deleting “\$20,000 or to imprisonment for 4 years or to both such fine and imprisonment” and substituting “\$25,000 or to imprisonment for a term not exceeding 10 years, or both”.

*Section 16 amended*

**5.** Section 16(2) of the Principal Act is amended by deleting “\$10,000” and substituting “\$25,000 or to imprisonment for a term not exceeding 10 years, or both”.

*Section 17 amended*

**6.** Section 17(2) of the Principal Act is amended by deleting “\$10,000” and substituting “\$25,000 or to imprisonment for a term not exceeding 10 years, or both”.

*Section 27 amended*

**7.** Section 27(2) of the Principal Act is amended by deleting “\$5,000” and substituting “\$25,000 or to imprisonment for a term not exceeding 10 years, or both”.

*Section 31 amended*

**8.** Section 31(3) of the Principal Act is amended by deleting “\$10,000” and substituting “\$25,000 or to imprisonment for a term not exceeding 10 years, or both”.

*Section 37 amended*

**9.** Section 37(3) of the Principal Act is amended by deleting “\$10,000” and substituting “\$25,000 or to imprisonment for a term not exceeding 10 years, or both”.

*Section 38 amended*

**10.** Section 38 of the Principal Act is amended by—

- (a) in subsection (5) deleting “\$10,000” and substituting “\$25,000 or to imprisonment for a term not exceeding 10 years, or both”; and
- (b) in subsection (6) deleting “\$10,000” and substituting “\$25,000 or to imprisonment for a term not exceeding 10 years, or both”.

*Section 40 amended*

**11.** Section 40(3) of the Principal Act is amended by deleting “\$10,000” and substituting “\$25,000 or to imprisonment for a term not exceeding 10 years, or both”.

*Section 47 amended*

**12.** Section 47(5) of the Principal Act is amended by deleting “\$20,000 or imprisonment for 4 years or to both such fine and imprisonment” and substituting “\$25,000 or to imprisonment for a term not exceeding 10 years, or both”.

*Section 55 amended*

**13.** Section 55 of the Principal Act is amended by deleting “\$10,000 or to imprisonment for a term of 4 years or to both such fine and imprisonment” and substituting “\$25,000 or to imprisonment for a term not exceeding 10 years, or both”.

*Section 63G amended*

**14.** Section 63G of the Principal Act is amended by deleting “to a fine of \$20,000” and substituting “to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both”.

*Section 65 amended*

**15.** Section 65(2) of the Principal Act is amended by deleting “6 years” and substituting “10 years”.

*Section 66H amended*

**16.** Section 66H(1)(b) of the Principal Act is amended by deleting “6 years” and substituting “10 years”.

*Section 71 amended*

**17.** Section 71 of the Principal Act is amended by—

- (a) deleting “\$20,000” and substituting “\$25,000”; and
- (b) after “declaration” inserting “or to imprisonment for a term not exceeding 10 years, or both”.

*Section 72 amended*

**18.** Section 72(5) of the Principal Act is amended by—

- (a) deleting “\$20,000” and substituting “\$25,000”; and
- (b) deleting “2 years” and substituting “10 years”.

*Section 74 amended*

**19.** Section 74(2) of the Principal Act is amended by deleting “3 years” and substituting “10 years,”.

*Section 95D amended*

**20.** Section 95D(1) of the Principal Act is amended by—

- (a) deleting “\$5,000” and substituting “\$25,000”; and
- (b) deleting “6 months” and substituting “10 years”.

*Section 100 amended*

**21.** Section 100 of the Principal Act is amended by—

- (a) in subsection (1)—
  - (i) deleting “\$10,000” and substituting “\$25,000”; and
  - (ii) after “whichever is the greater” inserting “or to a term of imprisonment not exceeding 10 years, or all such fines and penalties”; and
- (b) in subsection (2), deleting “\$10,000” and substituting “\$25,000 or a term of imprisonment not exceeding 10 years, or both”.

*Section 102 amended*

**22.** Section 102 of the Principal Act is amended by—

- (a) in subsection (1), deleting “5 years” and substituting “7 years”; and
- (b) in subsection (3), deleting “\$10,000 or to imprisonment for 4 years or to both such fine and imprisonment” and substituting “\$25,000 or a term of imprisonment not exceeding 10 years, or both”.

*Section 103 amended*

**23.** Section 103(4) of the Principal Act is amended by—

- (a) in paragraph (a) after “\$40,000”, inserting “or to a term of imprisonment not exceeding 10 years, or both,”;
- (b) in paragraph (b) after “\$200,000”, inserting “or to a term of imprisonment not exceeding 10 years, or both”.

*Section 104 amended*

**24.** Section 104 of the Principal Act is amended—

- (a) in subsection (4) deleting “\$10,000” and substituting “\$25,000 or a term of imprisonment not exceeding 10 years, or both”; and
- (b) in subsection (5)—
  - (i) deleting “\$10,000” and substituting “\$25,000”; and
  - (ii) after “whichever is the greater” inserting “or to a term of imprisonment not exceeding 10 years, or all penalties”.

*Section 113 amended*

**25.** Section 113(1) of the Principal Act is amended after “offence” by inserting “and is liable upon conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both”.

*Section 114A amended*

**26.** Section 114A(2) of the Principal Act is amended in by deleting “5 years” and substituting “7 years”.

*Section 116 amended*

**27.** Section 116(3) of the Principal Act is amended by—

- (a) deleting “\$10,000” and substituting “\$25,000”; and
- (b) after “liable to forfeiture” inserting “or to imprisonment for a term not exceeding 10 years, or all penalties”.

*Section 122 amended*

**28.** Section 122(2) of the Principal Act is amended by deleting “\$10,000 or imprisonment for 3 years or to both such fine and imprisonment” and substituting “\$25,000 or to imprisonment for a term not exceeding 10 years, or both”.

*New section 122B inserted*

**29.** The Principal Act is amended after section 122A by inserting, the following new section—

*“Search and examination by proper officers*

122B.—(1) In exercising any powers of boarding, entry, search or examination conferred under this Act, a proper officer may use x-ray or imaging equipment, other electronic devices or any other equipment authorised by the Comptroller.

(2) An examination carried out pursuant to subsection (1) and in accordance with section 114 of this Act—

- (a) may include the physical or chemical testing of the goods; and
- (b) may be facilitated by any means, including but not limited to, a Customs dog, a chemical substance, x-ray or imaging equipment, or any other mechanical, electrical or electronic device.”.

*Section 123 amended*

**30.** Section 123 of the Principal Act is amended by deleting “\$20,000 or imprisonment for 4 years or to both such fine and imprisonment” and substituting “\$25,000 or to imprisonment for a term not exceeding 10 years, or both”.

*Section 123A amended*

**31.** Section 123A(2) of the Principal Act is amended by deleting “imprisonment for a term not exceeding 2 years or to a fine not exceeding \$15,000 or to both” and substituting “a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both”.

*Section 124 amended*

**32.** Section 124 of the Principal Act is amended by—

- (a) in subsection (1), deleting “imprisonment for 10 years” and substituting “a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both”;
- (b) in subsection (2), deleting “imprisonment for 7 years” and substituting “a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both”;
- (c) in subsection (3), deleting “imprisonment for 2 years or to a fine not exceeding \$20,000 or to both such fine and imprisonment” and substituting “a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both”; and
- (d) in subsection (4), deleting “\$20,000 or imprisonment for 2 years or to both such fine and imprisonment” and substituting “\$25,000 or to imprisonment for a term not exceeding 10 years, or both”.

*Section 126 amended*

**33.** Section 126 of the Principal Act is amended by deleting “imprisonment for 4 years” and substituting “a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both”.

*Section 127 amended*

**34.** Section 127 of the Principal Act is amended by deleting “\$20,000 or to imprisonment for 2 years or to both such fine and imprisonment” and substituting “\$25,000 or to imprisonment for a term not exceeding 10 years, or both”.

*Section 128 amended*

**35.** Section 128 of the Principal Act is amended by—

- (a) in subsection (2), after “offence” inserting “and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both”; and
- (b) in subsection (4), deleting “3 years” and substituting “10 years.”.

*Section 134 amended*

**36.** Section 134(1) of the Principal Act is amended by deleting “\$10,000” and substituting “\$25,000 or to imprisonment for a term not exceeding 10 years, or both”.

*Section 136 amended*

**37.** Section 136 of the Principal Act is amended by deleting “\$10,000” and substituting “\$25,000 or a term of imprisonment not exceeding 10 years, or both”.

*Section 137 amended*

**38.** Section 137 of the Principal Act is amended by deleting “\$10,000” and substituting “\$25,000 or a term of imprisonment not exceeding 10 years, or both”.

*Section 138 amended*

**39.** Section 138 of the Principal Act is amended by—

- (a) deleting “\$20,000” and substituting “\$25,000”; and
- (b) deleting “2 years or to both such fine and imprisonment” and substituting “a term of imprisonment not exceeding 10 years, or both”.

*Section 139 amended*

**40.** Section 139 of the Principal Act is amended by deleting “\$20,000 whichever is the greater or to imprisonment for 2 years or to both such fine and imprisonment” and substituting “\$25,000 or a term of imprisonment not exceeding 10 years, or both”.

*Section 140 amended*

**41.** Section 140(3) of the Principal Act is amended by deleting “\$10,000” and substituting “\$25,000 or a term of imprisonment not exceeding 10 years, or both”.

*Section 143 amended*

**42.** Section 143 of the Principal Act is amended by deleting “\$10,000” and substituting “\$25,000 or a term of imprisonment not exceeding 10 years, or both.”.

*Section 143A amended*

**43.** Section 143A of the Principal Act is amended by deleting “\$20,000 and to imprisonment for 2 years” and substituting “\$25,000 or a term of imprisonment not exceeding 10 years, or both”.

*Section 149 amended*

**44.** Section 149(4) of the Principal Act is amended by deleting “\$10,000” and substituting “\$25,000 or a term of imprisonment not exceeding 10 years, or both”.

*Section 154A amended*

**45.** Section 154A(1)(e) of the Principal Act is amended by deleting “section 15A(3)” and substituting “section 154A(3)”.

*Section 165A amended*

**46.** Section 165A(1) of the Principal Act is amended by deleting “5 years” and substituting “7 years”.

*Section 167 deleted*

**47.** The Principal Act is amended by deleting “section 167”.

*New section 167A inserted*

**48.** The Principal Act is amended after section 167 by inserting the following new section—

*“Burden of proof*

167A. In any proceedings under this Act, the burden of proof lies with the defendant in the proceedings.”.

*Schedule amended*

**49.** The Schedule to the Principal Act is amended by—

- (a) in paragraph (v), deleting “.” and substituting “,”; and
- (b) after paragraph (v), inserting the following new paragraph—  
“(vi) customs rulings, in accordance with section 154G.”.

Passed by the Parliament of the Republic of Fiji this 14th day of July 2017.