

REPUBLIC OF VANUATU

BILL FOR THE CUSTOMS (AMENDMENT) ACT NO. OF 2018

Explanatory Note

The Bill amends the Customs Act No. 7 of 2013 to ensure that it is aligned with the new administrative rules contained in the new Tax Administration Act.

The amendments will allow importers to seek review of duties imposed on them using the new appeal and review procedures under the new Tax Administration Act.

Information obtained by Customs will be confidential and subject to the confidentiality requirements of the Tax Administration Act.

The ability of the Director responsible for Customs to issue a notice to any tax payer in regards to any assessments done, is sufficient with current practice, however further amendments are required to enable the Director or any tax payer to file notices of any assessments that are likely to be carried out.

This is to ensure better and effective communications between the Director and a tax payer on customs related issues that may arise.

Minister of Finance and Economic Management



REPUBLIC OF VANUATU

**BILL FOR THE
CUSTOMS (AMENDMENT)
ACT NO. OF 2018**

Arrangement of Sections

| | | |
|----------|--------------------------|----------|
| 1 | Amendment | 2 |
| 2 | Commencement..... | 2 |

REPUBLIC OF VANUATU

BILL FOR THE CUSTOMS (AMENDMENT) ACT NO. OF 2018

An Act to amend the Customs Act No. 7 of 2013.

Be it enacted by the President and Parliament as follows-

1 Amendment

The Customs Act No. 7 of 2013 is amended as set out in the Schedule.

2 Commencement

This Act commences on 1 April 2019

SCHEDULE

AMENDMENTS OF CUSTOMS ACT NO. 7 OF 2013

1 Section 1 (Definition of “tribunal”)

Repeal the definition.

2 Section 1

Insert in its correct alphabetical position:

“**approved form** has the same meaning as in the Tax Administration Act No. of 2018;”

3 Sections 8, 9 and 10

Repeal these sections.

4 Paragraph 17(1)(a)

Delete “prescribed form” (wherever occurring), substitute “approved form”

5 Subsection 51(1)

Delete “prescribed Customs declaration form”, substitute “approved form”

6 Section 70 (Heading)

Delete “specify”, substitute “assess”

7 Section 70

Delete “specify”, substitute “assess”

8 Subsection 71(1)

Delete “a determination made under subsection (1)”, substitute “an assessment made under section 70”

9 Subsection 71(2)

Repeal the subsection.

10 Subsections 71(3)

Renumber the subsection as (2).

11 Subsection 75(2)

Delete “in accordance with Part 7”, substitute “at the amount the Director considers appropriate”

12 After section 75

Insert

75A Notice of Assessment

The Director must give the person making an assessment under section 70 or subsection 75(1) a notice of assessment confirming the assessment or a notice of amended assessment setting out any amendments to the original assessment the Director has made.

75B Application for an amendment assessment of value or duty

- (1) A person who has made an assessment under section 70 or subsection 75(1), may apply to the Director for an amendment to be made to the assessment.
- (2) An application under subsection (1) must:
 - (a) state the amendments that the person believes are required to correct the assessment and the reasons for the amendments; and
 - (b) be filed with the Director within 5 years from the date that the person filed the assessment.
- (3) If an application has been made under subsection (1), the Director may make a decision to amend the assessment or refuse the application.
- (4) If the Director makes a decision to amend the assessment:
 - (a) the amended assessment must be made by making such alterations or additions, based on such evidence as may be available and to the best of his or her judgement, to the original assessment to ensure that the person making the original assessment is assessed in respect of the correct amount of duty payable (including a nil amount); and
 - (b) the Director must serve the person requesting the amendment with notice, in writing, of an amended assessment specifying the matters required by the Regulations.
- (5) If the Director makes a decision to refuse an application under subsection (1), the Director must serve the person with written notice of the decision.
- (6) A person who makes an application under subsection (1) may elect, by notice in writing to the Director, to treat the Director as having made a decision to disallow the application, if the Director has failed to notify the applicant of a decision on the application within 60 days of the application being filed with the Director.”

13 Section 76

Repeal the section, substitute

“76 Amendment of assessment

The Director may amend an assessment of duty, in accordance with section 16 of the Tax Administration Act No. of 2018, to ensure the correctness of the assessment even if the goods to which the duty relates are no longer subject to Customs control or that the duty originally assessed has been paid.”

14 Subsection 77(1)

- (a) After “amended under subsection” insert “75B or”
- (b) After “date on which notice of”, insert “the assessment,”

15 Section 79

Repeal the section.

16 Subsection 83(1)

Repeal the subsection, substitute

- “(1) A person is not entitled to obtain release of goods from the control of Customs until:
- (a) that person has received a notice of assessment or notice of amended assessment in respect of the import of those goods; and
 - (b) the sum payable by way of duty on the goods is paid in full.”

17 Section 103

Repeal the section, substitute

“103 Notice of Penalty

The Director may, when amending an assessment under section 76, require the owner or agent of the goods to pay a penalty within 10 days of a notice being issued under section 16 of the Tax Administration Act No. of 2018, if the Director satisfied that the assessment:

- (a) contains an error or omission and that as a result the amount of duty payable has not been paid or declared for payment or would not have been paid or declared for payment; or
- (b) is otherwise materially incorrect.”

18 Subsection 108(2)

Delete “approved format”, substitute “approved form”

19 Subsections 205(1), 206B(1) and 206C(1)

Delete “prescribed form”, substitute “approved form”

20 Part 16

Repeal the Part.