



**CUSTOMS AND EXCISE (VALIDATION AND
AMENDMENT) BILL 2021**

(NO. 5 OF 2021)



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A

BILL

Entitled

AN ACT TO VALIDATE THE FIRST SCHEDULE AND THE IMPOSITION AND COLLECTION OF DUTIES AND TARRIFS UNDER THE ACT SINCE 1 OCTOBER 2018, TO AMEND THE CUSTOMS AND EXCISE ACT (CAP. 121) TO PROVIDE FOR AN ALTERNATIVE MANNER OF PUBLICATION OF ORDERS MADE UNDER SECTION 7, AND FOR RELATED PURPOSES

ENACTED BY THE NATIONAL PARLIAMENT OF SOLOMON ISLANDS.

CUSTOMS AND EXCISE (VALIDATION AND AMENDMENT) BILL 2021

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CUSTOMS AND EXCISE (VALIDATION AND AMENDMENT) BILL 2021

PART 1 PRELIMINARY MATTERS

1 Short title

This Act may be cited as the *Customs and Excise (Validation and Amendment) Act 2021*.

2 Commencement

This Act commences on the day it is published in the *Gazette*.

3 Principal Act

In this Act, the *Customs and Excise Act* (Cap. 121) is referred to as the Principal Act.

PART 2 VALIDATION

4 Definitions

In this Act, unless the context otherwise requires:

“action”:

- (a) means an administrative or legislative action taken or purportedly taken under the Principal Act for:
- (i) imposing import or export duties of customs on goods; or
 - (ii) abating, revoking, suspending, reducing, increasing or altering, or providing for exemptions from payment of, import or export duties of customs on goods; or
 - (iii) imposing excise duties on goods manufactured in Solomon Islands; or

- (iv) abating, revoking, suspending, reducing, increasing or altering, or providing for exemptions from payment of, excise duties; or
 - (v) imposing drawbacks relating to import or export duties or excise duties;
 - (vi) abating, remitting or refunding, in whole or in part, a duty or excise payable or paid on goods imported into or exported from or manufactured in Solomon Islands; or
 - (vii) assessing the value of goods for assessing the value of duty or excise payable on the goods; or
 - (viii) collecting, receiving or disposing of import or export duties, excise duties, and deposits relating to the import or export of goods under the Principal Act; and
 - (ix) any other action, matter or consequence arising from the operation of the First Schedule; and
- (b) includes imposing conditions in taking an action, or for the purpose of taking an action, under the Principal Act;

“commencement” means the commencement of this Act;

“First Schedule” means the First Schedule to the Principal Act as in force from time to time;

“HS Code 2017” means the Harmonised System of Nomenclature that classifies goods for import and goods for export for tariff and statistical purposes published by the Customs Co-operation Council in Brussels which is published by the Ministry of Finance and Treasury as the Solomon Islands H.M. Customs and Excise Tariff Revised Edition 2018.

5 Validation of First Schedule

- (1) The HS Code 2017 is declared:
- (a) to have been the First Schedule on and from 1 October 2018; and

- (b) to be, and to always have been on and from that date, as valid, lawful and effectual as if it had been validly substituted as the First Schedule by the Minister by an order under section 7 of the Principal Act that was published in the Gazette and laid before Parliament as required by sections 61 and 62 of the *Interpretation and General Provisions Act* (Cap 85).
- (2) Matters and consequences arising from the First Schedule on and after 1 October 2018 must not be the subject of legal proceedings, whether commenced before or after the commencement, and the Government of Solomon Islands must not incur any accountability or liability, by reason of the ground of the invalidity and unlawfulness of the First Schedule on and after that date.

6 Validation of actions and certificates

- (1) All actions taken since the coming into force of the HS Code 2017 as the First Schedule until the commencement, and the consequences of those actions, are not and have never been invalid, unlawful or ineffectual by reason of the ground of the invalidity and unlawfulness of the First Schedule on and after 1 October 2018.
- (2) A certificate relating to an action validated under subsection (1) that has been issued under the Principal Act by the proper officer, and the consequences arising from the issue of the certificate, are not and have never been invalid, unlawful or ineffectual by reason of the ground of the invalidity and unlawfulness of the First Schedule on and after 1 October 2018.
- (3) An action or certificate validated under subsection (1) or (2), or the consequences of the action or arising from the certificate, must not be the subject of legal proceedings, whether commenced before or after the commencement, and the Government of Solomon Islands must not incur any accountability or liability, by reason of the ground of the invalidity and unlawfulness of the First Schedule on and after 1 October 2018.

PART 3 AMENDMENT

7 Section 7 amended

Section 7 of the Principal Act is amended by inserting before paragraph (a) the following:

“(aa) with the approval of Cabinet to do so, repeal and replace the First Schedule;”.

8 New section 7A

The Principal Act is amended by inserting after section 7:

“7A Publication of order made under section 7

- (1) The Minister must publish an order made under section 7 in accordance with section 61(1) of the *Interpretation and General Provisions Act* (Cap 85) or in accordance with subsection (2).
- (2) The Minister may publish an order made under section 7 by:
 - (a) giving notice in the Gazette of having made the order; and
 - (b) publishing the order on a Government website to which the public has free access in a format that enables a person to access and download a copy of the order; and
 - (c) making copies of the order available for viewing or purchasing at a place specified in the notice.
- (3) The notice published in the Gazette under subsection (2) must specify:
 - (a) that it is giving notice of an order made under section 7 the *Customs and Excise Act* (Cap. 121); and
 - (b) the heading of the order;
 - (c) a brief description of the content of the order; and
 - (d) the website where the order may be accessed and downloaded; and
 - (e) the other place or places where the order may be viewed or purchased.
- (4) An order published under subsection (2) comes into operation on the date the notice is published in the Gazette or on the other later date specified in the order.

- (5) To avoid doubt, section 62 of the *Interpretation and General Provisions Act* (Cap. 85) applies to an order made under section 7 whether it is published under section 61(1) of that Act or subsection (2).”

CUSTOMS AND EXCISE (VALIDATION AND AMENDMENT) BILL 2021

EXPLANATORY MEMORANDUM

OBJECT

The Object of the *Customs and Excise (Validation and Amendment) Bill 2021* is to:

- (a) give effect to the HS Code 2017 on and from 1 October 2018; and
- (b) validate the import duty rates and export duty rates levied and collected under the *Customs and Excise Act* (Cap. 121) on and from 1 October 2018; and
- (c) amend section 7 of the Act to enable the Minister with the approval of Cabinet to repeal and replace the First Schedule to the Act in addition to amending the export and import duty rates specified in the First Schedule; and
- (d) insert new section 7A into the Act to provide an alternative means to publishing orders made under section 7.

CONTENT

PART 1 provides for the short title to the Act, the commencement of the Act and reference to *Customs and Excise Act* (Cap. 121) in the Bill as the Principal Act.

PART 2 provides for the validation of import duty rates and export duty rates on and from 1 October 2018.

Clause 4 provides a dictionary of the specialist terms used in Part 2.

Clause 5 provides for the validation of the First Schedule since 1 October 2018.

Clause 6 provides for the validation of actions taken and certificates issued since 1 October 2018.

PART 3 amends the Act.

Clause 7 inserts new section 7(aa) enabling the Minister to repeal and replace the First Schedule by making an order.

Clause 8 inserts new section 7A into the Act. Subclause (1) requires the Minister to publish orders made under section 7 in accordance with section 61 of the *Interpretation and General Provisions Act* (Cap. 85) or subclause (2).

Clause 8(2) allows the Minister to publish an order under section 7 by giving notice in the Gazette of having made the order and publishing the order on a Government website and making copies available for viewing.

Clause 8(3) specifies the content of the notice published under subclause (2).

Clause 8(4) provides that section 62 of the *Interpretation and General Provisions Act* (Cap. 85) applies to require all orders under section 7 to be laid before Parliament whether published under subclause (1) or (2)

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HON. HARRY KUMA
MINISTER FOR FINANCE AND TREASURY

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