

Newsletter

Editor's Note

Integrated Legal Consultants (ILC) was founded in April 2007, in Accra, Ghana, to offer dedicated and innovative corporate legal services while ensuring that the Ghanaian and West African business community and our network of international clients benefit from the highest quality of corporate and commercial legal services that the ILC provides.

As part of this vision, ILC has introduced the publication of newsletters on legal and economic issues that would be of interest to its clients and equally affect their transactions. This is our second edition.

We trust that you found our last issue informative and of value to you.

The regulation of importation of goods and raw materials into Ghana are of great importance to foreign investors.

In this issue, we have highlighted key provisions of the Ghanaian Customs Act 2015 (Act 891), which repealed some of the existing laws on customs and excise for the benefit of Clients who want to import goods into Ghana.

We hope you find it informative and educative. Your feedback is welcomed.

Happy Reading!

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A SUMMARY ANALYSIS OF THE GHANAIAN CUSTOMS ACT 2015*

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In 2015, the Ghanaian parliament passed into law the Customs Act 2015 (Act 891) which amongst others repealed the Customs, Excise and Preventive Services Management Act and the Customs and Excise (Duties and Other Taxes) Act. This article will take a look at some of its key provisions.

Section 1 of Act 891 provides for the imposition of taxes and duties on prescribed goods imported into and exported from Ghana at the rates prescribed in the Harmonized Commodity Describing and Coding System.

Furthermore, Section 2 provides for exempt duties and taxes. Going further, the Act in section 4 empowers the Commissioner General (CG) to designate areas within the country as customs controlled areas for purpose of administering the provisions of Act 891.

Under the Act, by Virtue of section 4(3) goods in a custom controlled area for more than 14 days are liable to forfeiture to the state unless non- removal is satisfactorily explained to the CG. Also activities to be conducted in customs controlled areas are listed in section 5 to include loading, unloading, inspection and clearing of imported/exported goods, temporary storage and embarkation and disembarkation arriving in or departing from the country.

A look at section 11 indicates that the Act provides for provision of information to the Customs Authority by persons undergoing customs formalities and places an obligation on them to ensure the accuracy of such information amongst others.

Another important aspect under Act 891 is found in section 31 which describes coasting trade as

“all trade by air or sea from one part of Ghana to another”. It adds that all aircrafts and ships used for this are deemed to be coasting aircrafts and coasting ships.

It further provides that offenders under this section are liable to forfeiture of goods and payment of a penalty equivalent to 100% of the value of the goods by the master of the aircraft or ship.

In addition, section 37 provides for prohibited and restricted goods that cannot be carried coastwise or put

on a coasting aircraft or ship. It further provides for a penalty of between 1,000 and 3,000 penalty units as well as forfeiture of the prohibited goods to the state by the offender.

The Act provides in section 43 that only indigenously wholly owned companies can engage in the business of customs house agents and they must obtain the requisite licence from the CG to be able to engage in such business.

Licences granted by the CG are valid for one year and are subject to renewal. Also, Section 55 provides that import duties shall be paid on vehicles imported into the country except the vehicle is exempted under the Act.

Some other sections to note include section 66 which provides for the classification of customs tariffs, section 67 which defines customs value as the transaction value or price actually paid /payable for goods imported into the country and section 68 which provides that where customs value cannot be determined based on transaction value, it shall be determined by proceeding sequentially through certain secondary valuation methods provided in subsections (a)-(e).

Section 72 of Act provides for calculation of duty and the person calculating it shall take into account the customs value, quantity, nature and origin of goods imported in calculating such duty while section 73 provides for payment of duty.

In addition, one should note sections 112-117 which provide for powers of Customs officers to search, and arrest offenders and section 123 which provides for falsification, alteration and forgery. A penalty of between 2500 and 7500 penalty units applies upon conviction as well as forfeiture of the goods to the State.

Finally, some other key sections include sections 131 which provides for obstructing an officer, section 133 which provides for impersonating an officer, section 138 which provides for concealment of goods and section 139 which provides for bribes and the penalty for engaging/offering same.

In conclusion, the Act seeks to adequately regulate custom activities as well as tariff collection in the country and is believed to be a step in the right direction.

Businessmen and traders in the region who intend to do business in Ghana are advised to be well informed of the

contents of Act 891 and its application particularly in relation to their businesses.

If you require further information on the business environment in Ghana or need legal representation in respect to same, kindly email esohe@integratedlegalconsultants.com

* A version of this article written by the same author had initially been published by the online magazine The Lawyer's Chronicle at <http://www.thelawyerschronicle.com/a-summary-review-of-the-new-ghanaian-customs-act-2015/>

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