

ÉIRE

AN BILLE CUSTAM (LEASU), 1945. CUSTOMS (AMENDMENT) BILL, 1945.

Mar do leasúíodh i gCoiste.

As amended in Committee.

ARRANGEMENT OF SECTIONS.

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SCHEDULE.

ENACTMENTS REPEALED.

ÉIRE.

AN BILLE CUSTAM (LEASU), 1945. CUSTOMS (AMENDMENT) BILL, 1945.

BILL

entitled

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AN ACT TO AMEND AND EXTEND THE CUSTOMS ACTS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

- Definitions. 1.—In this Act—
- Act of 1876. the expression “the Act of 1876” means the Customs Consolidation Act, 1876, as amended or adapted by or under any subsequent enactments; 10
- enactment. the word “enactment” means any enactment being—
- (a) a British statute,
- (b) a Saorstát Eireann statute, or
- (c) an Act of the Oireachtas (whether passed before or after this Act); 15
- exportation. references to exportation shall be construed as including references to the shipment of articles as ship’s stores or to the loading of articles as stores for aircraft;
- officer of Customs and Excise. the expression “officer of Customs and Excise” includes a member of the Gárda Síochána and any person in the public service who is for the time being employed in the prevention of the illegal importation or exportation of goods; 20
- statutory instrument. the expression “statutory instrument” means an instrument for the time being in force being— 25
- (a) an order made (whether before or after the passing of this Act) in exercise of powers conferred by any enactment, or
- (b) an order made (whether before or after the passing of this Act) or a direction in writing given (whether before or after the passing of this Act) in exercise of powers conferred by an order made in exercise of powers conferred by any enactment. 30
- Illegal importation of goods. 2.—Any goods, the importation of which is for the time being prohibited or restricted by any enactment or statutory instrument, shall be deemed to be included amongst the goods enumerated and described in the Table of Prohibitions and Restrictions Inwards contained in section 42 of the Act of 1876, and the provisions of the Act of 1876 shall apply accordingly. 35
- Penalty for illegally exporting goods, etc. 3.—(1) Every person who— 40
- (a) exports any goods in contravention of any enactment or statutory instrument, or
- (b) attempts to export any goods in contravention of any enactment or statutory instrument or

- (c) brings or sends any goods to any place for the purpose of exportation in contravention of any enactment or statutory instrument, or
- 5 (d) attempts to bring or send any goods to any place for the purpose of exportation in contravention of any enactment or statutory instrument, or
- (e) is knowingly concerned in dealing with any goods (being goods the exportation of which is prohibited or restricted by any enactment or statutory instrument)
- 10 with intent to evade such prohibition or restriction, or
- (f) keeps any goods at any place for the purpose of facilitating their exportation in contravention of any enactment or statutory instrument, or
- (g) aids, abets or assists another person or conspires with another person to commit an offence under *paragraph*
- 15 (a), (b), (c), (d), (e) or (f) of this subsection,

shall be guilty of an offence against the Customs Acts and shall for each such offence forfeit either treble the value of the goods or one hundred pounds, at the election of the Revenue Commissioners, and such person may either be detained or proceeded against by summons.

(2) Where the penalty for any offence under *subsection (1)* of this section is to be calculated by reference to treble the value of any goods, the value of the goods shall be taken to be the price at which goods of the like kind, but of the best quality, upon which the duty or duties (if any) had been paid were sold at or about the time of the commission of the offence.

(3) Where—

- 80 (a) a person is charged with the offence of exporting on or about a particular date any goods in contravention of any enactment or statutory instrument, and
- (b) it is proved in the proceedings—
 - 35 (i) that the goods are goods the exportation of which is prohibited or restricted by such enactment or statutory instrument, and
 - (ii) that the goods were on or about the said date exported, and
 - (iii) that such person, prior to such exportation, owned, possessed or had the custody or control of the goods,

such person shall, until the contrary is proved, be presumed to have exported the goods on or about the said date in contravention of such enactment or statutory instrument.

(4) Where—

- 45 (a) a person is charged with the offence of attempting on or about a particular date to export any goods in contravention of any enactment or statutory instrument, and
- (b) it is proved in the proceedings—
 - 50 (i) that the goods are goods the exportation of which is prohibited or restricted by such enactment or statutory instrument, and
 - (ii) that such person on or about the said date attempted to export the goods,

55 such person shall, until the contrary is proved, be presumed to have attempted on or about the said date to export the goods in contravention of such enactment or statutory instrument.

(5) Where—

(a) a person is charged with the offence of bringing or sending on or about a particular date any goods to any place for the purpose of exportation in contravention of any enactment or statutory instrument, and 5

(b) it is proved in the proceedings—

(i) that the goods are goods the exportation of which is prohibited or restricted by such enactment or statutory instrument, and

(ii) that such person on or about the said date brought 10
or sent the goods to that place,

such person shall, until the contrary is proved, be presumed to have brought or sent on or about the said date the goods to that place for the said purpose.

(6) Where—

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(a) a person is charged with the offence of attempting on or about a particular date to bring or send any goods to a place for the purpose of exportation in contravention of any enactment or statutory instrument, and

(b) it is proved in the proceedings—

20

(i) that the goods are goods the exportation of which is prohibited or restricted by such enactment or statutory instrument, and

(ii) that such person attempted on or about the said date to bring or send the goods to a place, 25

such person shall, until the contrary is proved, be presumed to have attempted on or about the said date to bring or send the goods to a place for the said purpose.

(7) Where—

(a) a person is charged with the offence of being knowingly 30
concerned in dealing on or about a particular date with any goods (being goods the exportation of which is prohibited or restricted by any enactment or statutory instrument) with intent to evade such prohibition or restriction, and 35

(b) it is proved in the proceedings—

(i) that the goods are goods the exportation of which is prohibited or restricted by such enactment or statutory instrument, and

(ii) that such person was concerned on or about the said 40
date in dealing with the goods in a manner calculated to facilitate the evasion of such prohibition or restriction,

such person shall, until the contrary is proved, be presumed to have been knowingly concerned on or about the said date in dealing with the goods with intent to evade such prohibition or restriction. 45

(8) Where—

(a) a person is charged with the offence of keeping on or about a particular date goods at any place for the purpose of 50
facilitating their exportation in contravention of any enactment or statutory instrument, and

(b) it is proved in the proceedings—

(i) that the goods are goods the exportation of which is prohibited or restricted by such enactment or 55
statutory instrument, and

(ii) that the goods were on or about the said date found by an officer of Customs and Excise at such place, and

- (iii) that such place is on or in the land or premises of such person or is in the immediate vicinity of such land or premises,

such person shall, until the contrary is proved, be presumed to have kept on or about the said date the goods at such place for the said purpose.

(9) Where—

(a) a person (in this subsection referred to as the principal offender) is convicted of an offence (in this subsection referred to as the principal offence) under *paragraph* (a), (b), (c), (d), (e) or (f) of *subsection (1)* of this section, and

(b) proceedings are instituted against another person charging him with the offence of aiding, abetting, or assisting another person or of conspiring with another person to commit the principal offence,

evidence of the conviction of the principal offender of the principal offence shall, in those proceedings, be evidence of the commission of the principal offence.

4.—(1) Whenever an officer of Customs and Excise reasonably suspects that any goods are intended to be exported in contravention of any enactment or statutory instrument, he may request any person, in whose possession or control or on or in whose land or premises or in the immediate vicinity of whose land or premises the goods are found, to give to him all information, relevant to all or any of the following subjects of inquiry, which is in the possession or knowledge of such person, and to produce to him all documents, relevant to any such subject of inquiry, which are in the possession or custody of such person, that is to say:—

Provisions in aid of detection and conviction of persons illegally exporting goods.

- (a) the name and address of the owner of the goods,
(b) the purpose for which the goods are at the place where they are found,
(c) the intended disposition of the goods,
(d) whether the goods are intended to be exported,
(e) if the goods are intended to be exported, whether a licence or other authorisation to export the goods has been obtained or, if not obtained, has been applied for.

(2) When an officer of Customs and Excise, in exercise of the powers conferred on him by *subsection (1)* of this section, requests any person, in whose possession or control or on or in whose land or premises or in the immediate vicinity of whose land or premises any goods (being goods which he reasonably suspects are intended to be exported in contravention of any enactment or statutory instrument) are found, to give him any such information as is mentioned in the said subsection or to produce any such document as is mentioned in the said subsection, the following provisions shall have effect—

- (a) that person shall forthwith to the best of his knowledge or ability so give such information or produce such document (as the case may be),
(b) if that person fails or refuses so to do or gives any information which is false or misleading, then—

(i) he shall be guilty of an offence under this section and shall be liable on conviction to a customs penalty of fifty pounds and may either be detained or proceeded against by summons,

(ii) if—

(I) proceedings are instituted against him for

exporting the goods in contravention of the said enactment or statutory instrument, and

- (II) it is proved that the goods have been removed (otherwise than by or under the authority of an officer of Customs and Excise) from the place at which they were found, such failure or refusal or such giving of information which is false or misleading (whether he has or has not been prosecuted therefor) shall in the said proceedings be evidence, until the contrary is proved, that he exported the goods in contravention of the said enactment or statutory instrument.

Forfeiture of goods being or attempted to be illegally exported, etc.

5.—(1) If any goods (being goods the exportation of which is prohibited or restricted by any enactment or statutory instrument) have been or are being dealt with in any of the following ways, that is to say :—

- (a) have been exported in contravention of such enactment or statutory instrument, or
- (b) are attempted to be exported in contravention of such enactment or statutory instrument, or
- (c) have been brought or sent to any place for the purpose of exportation in contravention of such enactment or statutory instrument, or
- (d) are being brought or sent to any place for the purpose of exportation in contravention of such enactment or statutory instrument, or
- (e) have been or are being dealt with in any other manner with intent to evade such prohibition or restriction, or
- (f) have been or are being kept at any place for the purpose of facilitating their exportation in contravention of such enactment or statutory instrument,

the goods shall be forfeited.

(2) All ships, boats, carriages or other conveyances, together with all horses and other animals and things made use of in the exportation or conveyance of any goods, which are, by virtue of subsection (1) of this section, liable to be forfeited, shall be forfeited.

(3) Where—

- (a) proceedings are taken, in pursuance of section 207 of the Act of 1876, for the forfeiture and condemnation of any goods, the exportation of which is prohibited or restricted by any enactment or statutory instrument, and
- (b) it is averred in the information that the goods were seized for being dealt with in a specified way (being a way mentioned in subsection (1) of this section), and
- (c) it is proved in the proceedings that the goods were seized on suspicion of being dealt with in the way so specified,

it shall, until the contrary is proved, be presumed that the goods, at the date of seizure, were being or had been dealt with in the way so specified.

Notice of seizure of goods.

6.—Where any goods are seized as forfeited, the notice of seizure required by section 207 of the Act of 1876 to be given to the owner of the goods may, if the owner has no known address in the State, be given by the publication of a notice of the seizure in *Iris Oifigiúil*.

Amendment of section 1 of the Customs (Amendment) Act, 1942.

7.—Subsection (6) of section 1 of the Customs (Amendment) Act, 1942 (No. 21 of 1942), shall be construed and have effect as if the words “ and may either be detained or proceeded against by summons ” were inserted at the end of the said subsection.

- 8.—Proceedings in any court of competent jurisdiction for the forfeiture and condemnation of goods may be brought in the name or at the suit of the Attorney-General. Proceedings for forfeiture and condemnation of goods.
- 9.—(1) Where proceedings for an offence under the Customs Acts are dismissed, whether on the merits or without prejudice, by the District Court, the complainant may appeal against the order of dismissal to the Judge of the Circuit Court within whose circuit the Courthouse in which such order was made is situate. Appeals from the District Court.
- (2) The decision of a Judge of the Circuit Court on an appeal under this section shall be final and conclusive and shall not be appealable.
- 10.—A Judge of the Circuit Court may, on the application made, before judgment is delivered, by any party to an appeal pending before him under section 9 of this Act, refer any question of law arising in such appeal to the Supreme Court by way of case stated for the determination of the Supreme Court. Case stated.
- 11.—The Revenue Commissioners may make regulations prescribing the manner in which the weight of goods of a specified kind (defined in such manner and by reference to such things as the Revenue Commissioners think proper) shall be ascertained for the purposes of the Customs Acts or any statutory instrument relating to the Customs, and, where any regulations under this section in relation to goods of a particular kind are for the time being in force, the weight thereof shall, for the said purposes, be ascertained in the manner prescribed by those regulations. Ascertainment of weight of goods.
- 12.—In this and every other Act of the Oireachtas (whether passed before or after this Act) the expression "the Customs Acts" shall mean, and, in the case of any Act of the Oireachtas passed before this Act, shall be deemed always to have meant, all enactments relating to the Customs. Definition of Customs Acts.
- 13.—The enactments set out in the second column of the Schedule hereto are hereby repealed to the extent specified in the third column of the said Schedule. Repeals.
- 14.—(1) This Act may be cited as the Customs (Temporary Provisions) Act, 1945. Short title and construction.
- (2) This Act shall continue in force until the thirty-first day of March, 1950, and shall then expire.
- (3) This Act shall be construed as one with the Customs Acts.

SCHEDULE.

40 ENACTMENTS REPEALED.

Session and Chapter or Number and Year (1)	Short Title (2)	Extent of Repeal (3)
40 & 41 Vic., c. 68	The Destructive Insects and Pests Act, 1877.	In section 1, from the words "If any person lands" to the end of the section.
No. 58 of 1924 ..	The Dairy Produce Act, 1924.	Section 13.
No. 10 of 1930 ..	The Agricultural Produce (Fresh Meat) Act, 1930.	Section 46.
No. 11 of 1930. ..	The Game Preservation Act, 1930.	Subsections (5) and (6) of section 27.
No. 26 of 1931 ..	The Agricultural Produce (Potatoes) Act, 1931.	Section 30.
No. 25 of 1932 ..	The Therapeutic Substances Act, 1932.	Section 13.
No. 16 of 1933 ..	The Musk Rats Act, 1933	Section 22.
No. 26 of 1933 ..	The Agricultural Products (Regulation of Export) Act, 1933.	Section 4.

Session and Chapter or Number and Year (1)	Short Title (2)	Extent of Repeal (3)
No. 1 of 1934 ..	The Dangerous Drugs Act, 1934.	Section 4.
No. 12 of 1934 ..	The Control of Imports Act, 1934.	Subsection (2) of section 5.
No. 37 of 1934 ..	The Tobacco Act, 1934	Section 61.
No. 42 of 1934 ..	The Slaughter of Cattle and Sheep Act, 1934.	Subsection (3) of section 30.
No. 21 of 1935 ..	The Dairy Produce (Price Stabilisation) Act, 1935	Subsection (6) of section 24; paragraph (b) of subsection (2) of section 29; subsection (5) of section 31.
No. 23 of 1935 ..	The Road Transport Act, 1935.	Subsection (5) of section 6; subsection (5) of section 7.
No. 24 of 1935 ..	The Pigs and Bacon Act, 1935.	Section 67.
No. 14 of 1936 ..	The Agricultural Seeds Act, 1936.	Subsection (5) of section 3.
No. 16 of 1936 ..	The Sugar (Control of Import) Act, 1936.	Subsection (2) of section 4.
No. 5 of 1938 ..	The Sheepskin (Control of Export) (Amendment) Act, 1938.	Subsections (2) and (3) of section 2.
No. 6 of 1938 ..	The Scrap Iron (Control of Export) Act, 1938.	Subsections (2) and (3) of section 3.
No. 11 of 1938 ..	The Cement (Amendment) Act, 1938.	Subsection (4) of section 13.
No. 14 of 1938 ..	The Agricultural Products (Regulation of Import) Act, 1938.	Subsection (1) of section 3.
No. 16 of 1938 ..	The Agricultural Produce (Cereals) Act, 1938.	Section 3; subsections (2) and (3) of section 25.
No. 2 of 1939 ..	The Agricultural Produce (Eggs) Act, 1939.	Section 34.
No. 13 of 1939 ..	The Offences against the State Act, 1939.	In subsection (3) of section 11, from the words "and all such copies" to the end of the subsection.
No. 17 of 1939 ..	The Fisheries Act, 1939	Section 43; subsection (6) of section 46.
No. 21 of 1939 ..	The Air-Raid Precautions Act, 1939.	Subsection (4) of section 63.

Éire.

AN BILLE CUSTAM (LEASU), 1945.

BILLE

(mar do leasúidh i gCoiste)

dá ngairmtear

Acht do leasú agus do leathnú na nAcht Custam.

An tAire Airgeadais do thug isteach.

Do hOrduíodh, ag Dáil Eireann, do chlóbhualadh, 22ú Feabhra, 1945.

BAILE ATHA CLIATH:
FOILLSITHE AG OIFIG AN tSOLATHAIR.

*Is ceannach trí aon díoltóir leabhar, no díreach
s Oifig Díolta Foillseacháin Rialtais, 3-4, Sráid
an Choláiste, Baile Atha Cliath.*

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Éire.

CUSTOMS (AMENDMENT) BILL, 1945.

BILL

(as amended in Committee)

entitled

An Act to amend and extend the Customs Acts.

Introduced by the Minister for Finance.

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