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AN BILLE SAORPHORT, 1985  
FREE PORTS BILL, 1985

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*Mar a tionscnaíodh  
As initiated*

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AN BILLE SAORPHORT, 1985  
FREE PORTS BILL, 1985

# BILL

*entitled*

AN ACT TO PROVIDE FOR THE ESTABLISHMENT AND 5  
MAINTENANCE OF FREE PORTS AND FOR OTHER  
MATTERS CONNECTED THEREWITH.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.—In this Act—

“the Community” means the European Economic Community; 10

“Community goods” means goods—

(a) wholly manufactured or produced in the customs territory of the Community without the addition of goods from countries or territories which are not part of the customs territory of the Community, or 15

(b) from countries or territories not forming part of the customs territory of the Community which have been released for free circulation in the Community, or

(c) manufactured or produced in the customs territory of the Community, either from goods referred to in *paragraph (b)* or from a combination of goods referred to in *paragraph (a)* and *paragraph (b)* of this definition; 20

“free port” means an area which, under *section 2* of this Act, for the time being constitutes a free port;

“goods” includes things of every kind whether animate or inanimate; 25

“import duties” means customs duties and charges having equivalent effect, as well as agricultural levies and other import charges laid down within the framework of the Common Agricultural Policy of the Community or in that of specific arrangements applicable, pursuant to Article 235 of the Treaty establishing the Community, to certain goods resulting from the processing of agricultural products; 30

“inward processing” means the procedure under which goods imported into the Community which are liable to import duties may be placed under customs control, without payment of the import duties applicable thereto, for the purpose of being processed and exported outside the customs territory of the Community; 35

"land" includes land covered with water and any part of the territorial waters of the State;

"licence" means a licence granted under *section 4* of this Act;

"the Minister" means the Minister for Communications;

- 5 "non-Community goods" means goods other than Community goods, including, without prejudice to the agreements concluded by the Community with countries which are not member States of the Community for the purposes of the Community transit procedure, goods which, while satisfying the conditions laid down for Community goods,  
10 are re-imported into the customs territory of the Community after having been exported from that territory;

"officer of customs and excise" means any officer of customs and excise or any other officer of the Revenue Commissioners;

- 15 "processing under customs control" means the arrangements under which non-Community goods are allowed into the customs territory of the Community for the purposes of processing which alters their description or state, without being subject to import duties, and the products resulting from the processing being put into free circulation at the rate of import duty appropriate to them;

- 20 "usual forms of handling" means the forms of handling set out in Article 1 of Council Directive No. 71/235/EEC of 21 June, 1971.<sup>1</sup>

- 25 2.—(1) The Minister, with the consent of the Minister for Finance and the Minister for Industry, Trade, Commerce and Tourism, may by order declare that, on and after a specified date, the land enclosed within the limits defined by that order shall be a free port for the purposes of this Act.

Establishment of free ports.

(2) The Minister may with the consent of the Minister for Finance and the Minister for Industry, Trade, Commerce and Tourism, by order amend an order made under this section.

- 30 3.—(1) Each free port established under this Act shall be under the control and management of such person or persons as may be designated by order by the Minister with the consent of the Minister for Finance and the Minister for Industry, Trade, Commerce and Tourism.

Management and control of free ports.

- 35 (2) The Minister may with the consent of the Minister for Finance and the Minister for Industry, Trade, Commerce and Tourism, by order amend or revoke an order made under this section.

- 40 4.—The Minister may, after consultation with the Minister for Finance and the Minister for Industry, Trade, Commerce and Tourism, grant or refuse to grant to any person a licence authorising the carrying on within a free port of any trade, business or manufacture.

Grant of licence to carry on trade, business or manufacture within a free port.

5.—(1) Any person may apply to the Minister for a licence.

Application for licence.

(2) Every application shall—

(a) be in writing,

45 <sup>1</sup>O.J. No. L143, 29.6.71, p. 28.

	(b) be sent to the Secretary, Department of Communications, Dublin,	
	(c) specify the trade, business or manufacture to which the applicant desires the licence to relate,	
	(d) be accompanied by such information as the Minister may require.	5
Conditions attached to licence.	6.—(1) The Minister may, after consultation with the Minister for Finance and the Minister for Industry, Trade, Commerce and Tourism, attach to a licence such conditions as he thinks proper, including conditions in regard to the date, fixed by the Minister after consultation with the licensee, on or before which the licensee shall begin to carry on within a free port the trade, business or manufacture authorised by the licence.	10
	(2) A licensee who does not comply with a condition attached to the licence shall, in addition to any other penalty to which he may be liable, be guilty of an offence under this section and shall be liable on summary conviction to a fine not exceeding £500.	15
Revocation or variation of licence.	7.—(1) The Minister may, at his discretion, revoke a licence if—	
	(a) he is satisfied that there has been a breach of a condition attached to the licence, or	20
	(b) the licensee is convicted of an offence against the Customs Acts.	
	(2) The Minister may vary at any time the conditions attached to a licence.	
	(3) Before revoking a licence, the Minister shall give not less than twenty-one days' notice of his intention to the licensee and shall consider any representations made to him by the licensee.	25
Register of licences.	8.—(1) The Minister shall establish and maintain a register of licences (in this section referred to as "the register") granted under this Act.	30
	(2) There shall be entered in the register in respect of each licence—	
	(a) the name of the person to whom the licence was granted, and	
	(b) the trade, business or manufacture to which the licence relates.	35
	(3) The register shall be kept in the Department of Communications, Dublin, and shall be open to inspection during such times as the Minister may direct on payment of such fee as the Minister may from time to time prescribe by order.	
Restriction on carrying on of trade, business or manufacture within a free port.	9.—(1) No person shall carry on a trade, business or manufacture within a free port unless he is the holder of a licence authorising the carrying on of that trade, business or manufacture, as the case may be, within that free port.	40

(2) A person who contravenes this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

5 10.—(1) (a) Subject to such conditions as the Revenue Commissioners may impose, non-Community goods brought into a free port shall be exempt from import duties and shall continue to be exempt from such duties for as long as the goods remain within that free port. Provisions relating to goods brought into a free port.

10 (b) Non-Community goods in a free port may be subjected to:

(i) loading, unloading, transshipment or storage;

(ii) the usual forms of handling intended to ensure their preservation or to improve their packaging or marketable quality;

15 (iii) transfer of ownership;

(iv) destruction.

20 (c) Where non-Community goods are subjected in a free port to forms of treatment other than those referred to in *paragraph (b)* of this section, such treatment shall take place under the conditions and in accordance with the rules applying to inward processing or processing under customs control.

25 (2) Notwithstanding *subsection (1)* of this section, goods manufactured or produced within a free port or goods referred to in *subsection (1)* of this section may not be used, consumed or sold by retail in a free port except on payment of the appropriate import duties; provided, however, that this subsection shall not apply to goods used in a free port in the circumstances referred to in *subsection (1) (b)* and *subsection (1) (c)* of this section.

30 (3) Notwithstanding *subsection (1) (a)* of this section, the Revenue Commissioners may place a limit on the period during which goods may remain in a free port.

35 (4) (a) Where non-Community goods brought into a free port are delivered for home consumption the import duties shall be collected on the basis of the rates or amounts applicable on the date of the delivery of the goods for home consumption according to their nature, and their value for customs purposes and quantity as ascertained or accepted on that date by the Revenue Commissioners; provided, however,

40 (i) that costs of warehousing and preserving the goods during their period in a free port borne by a purchaser shall not be included in the value for customs purposes where the price paid or payable by the purchaser is taken as the basis for valuation, and

45 (ii) where, with the prior authority of the Revenue Commissioners, the goods have undergone a form of treatment referred to in *subsection 1 (b)* of this section, the nature, value for customs purposes and quantity of the goods shall, at the request of the declarant, be that of the goods in the condition in which they were before being subjected to that treatment.  
50

(b) Notwithstanding *subsection (4) (a)* of this section, non-Community goods which have been subjected in a free port to forms of treatment other than those referred to in *subsection (1) (b)* of this section may be delivered for home consumption only under the conditions and in accordance with the rules applicable to inward processing or processing under customs control. 5

(5) A person who contravenes *subsection (1), (2) or (3)* of this section shall be guilty of an offence against the Customs Acts and shall, in addition to any other penalty to which he may be liable, be liable on summary conviction thereof to a customs penalty not exceeding £500. 10

(6) Any goods in respect of which a contravention of this section has taken place shall be liable to forfeiture under the Customs Acts whether such goods are in the possession of the offender or some other person. 15

Examination of vehicles, ships, boats, hovercraft and aircraft within 32 kilometres of a free port.

11.—(1) The person driving or in control of, a vehicle in motion within 32 kilometres of a free port shall stop the vehicle on being required to do so by an officer of customs and excise.

(2) An officer of customs and excise may search any vehicle, aircraft, ship, boat or hovercraft within 32 kilometres of a free port, and examine and take an account of any goods therein. 20

(3) The person in control of a vehicle, ship, boat, hovercraft or aircraft within 32 kilometres of a free port and every person therein shall truthfully answer all questions put to him by an officer of customs and excise in relation to his journey or to goods in the vehicle, ship, boat, hovercraft or aircraft. 25

(4) Where a person contravenes, whether by act or omission, any provision of this section or obstructs, resists or interferes with an officer of customs and excise in the exercise of the powers conferred on him by this section, he shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding £500. 30

Regulations by Minister for Finance.

12.—(1) The Minister for Finance may make regulations:

(a) adapting or modifying, for the purposes of this Act, any of the provisions of the Customs Acts or any statutory instrument relating to customs made under statute; 35

(b) governing the movement of persons, aircraft, hovercraft, ships, boats, vehicles and goods into and out of a free port from and to other parts of the State and prohibiting such movement except by such routes within the State and during such hours as may be prescribed; 40

(c) prescribing the places where and the form and manner in which entry of goods under the Customs Acts shall be delivered and import or export duties, where applicable, shall be paid in respect of goods brought into or removed from a free port; 45

(d) imposing obligations on such person or persons as may be designated under *section 3* of this Act;

- (e) governing the keeping, storing or handling of goods in a free port;
- (f) imposing conditions regarding the keeping and preserving of specified accounts or records in respect of goods which are in a free port;
- (g) requiring the giving of such security by bond or otherwise as the Revenue Commissioners may require in respect of goods within a free port.

(2) A person who contravenes any regulation under this section shall, in addition to any other penalty to which he may be liable, be guilty of an offence against the Customs Acts and shall be liable on summary conviction thereof to a customs penalty not exceeding £500.

(3) Any goods in respect of which a contravention of any regulation under this section has taken place together with all aircraft, hovercraft, ships, boats, vehicles, animals and other things used in their conveyance, shall be liable to forfeiture under the Customs Acts.

13.—(1) The Minister may, with the consent of the Minister for Finance, make regulations for the management and control of a free port.

Regulations by Minister.

(2) A person who contravenes, whether by act or omission, any regulation under this section shall, in addition to any other penalty to which he may be liable, be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding £500.

14.—Every order and regulation (other than an order under section 17 (3) of this Act) shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution is passed by either House within the next twenty-one days on which that House has sat after the order or regulation is laid before it annulling the order or regulation, the order or regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Laying of orders and regulations before the Oireachtas.

15.—The expenses incurred by the Minister or the Minister for Finance in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Expenses.

16.—(1) All fees and other moneys payable to the Minister under this Act shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance.

Disposal of moneys payable under Act.

(2) The Public Offices Fees Act, 1879, shall not apply in respect of fees mentioned in subsection (1).

17.—(1) This Act may be cited as the Free Ports Act, 1985.

Short title, construction and commencement.

(2) This Act, so far as relating to customs, shall be construed together with the Customs Acts.

(3) This Act shall come into operation on such day or days as, by order or orders made by the Minister, may be fixed therefor either generally or with reference to any particular purpose or provision and different days may be so fixed for different purposes and different provisions.

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**BILLE**

*(mar a tionscnaíodh)*

*dá ngairtear*

Acht do dhéanamh socrú chun saorphoirt a bhunú agus a chothabháil agus le haghaidh nithe eile a bhaineann leis sin.

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**BILL**

*(as initiated)*

*entitled*

An Act to provide for the establishment and maintenance of free ports and for other matters connected therewith.

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*An tAire Cumarsáide a thólaic,  
17 Meitheamh, 1985*

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*Presented by the Minister for Communications,  
17th June, 1985*

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