

SAMOA

Arrangement of Provisions

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| 1. Short title and commencement | 3. Insertion of new Part VIIIA |
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2010, No. 2

AN ACT to amend the Customs Act 1977 to ensure compliance with the World Trade Organisation requirements, and for related purposes.

[27th January 2010]

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

1. Short title and commencement-(1) This Act may be cited as the Customs Amendment Act 2010 and must be read together with and form part of the Customs Act 1977 (Principal Act).

(2) This Act commences on the date it is assented to by the Head of State.

in respect of goods specified in the notice, as
the case may be; and

203E. Duration of notice - A notice accepted under section 203D remains in force for the period specified in the notice unless:

- (a) it is revoked by the claimant by notice in writing;
or
- (b) the Comptroller revokes the notice; or
- (c) the Court orders, in infringement proceedings, that the notice be revoked.

203F. Power to suspend customs clearance procedure - If the Comptroller accepts the notice under section 203D and the notice has not been revoked, the Comptroller may suspend the customs clearance of any goods which the Comptroller has reasonable grounds to suspect are goods with which an infringing sign are being imported.

203G. Security - The Comptroller may refuse to suspend the customs procedure in relation to the goods unless:

- (a) the claimant has deposited with the Comptroller, at the time notice is given under section 203B, a sum of money that, in the opinion of the Comptroller, is sufficient to reimburse Customs for the reasonable expenses it is likely to incur as a result of the suspension of the customs clearance procedure; or
- (b) the claimant has given security, to the satisfaction of the Comptroller, for the reimbursement of Customs for those expenses.

203H. Notification - The Comptroller must give to the claimant and the importer a written notification of the suspension as soon as possible after the Comptroller has suspended customs clearance of any goods.

203I. Inspection and examination of goods-(1) The Comptroller must allow the claimant and the importer to examine the goods for which clearance is suspended and to remove samples for examination, testing and analysis for the purposes of conducting infringement proceedings.

(2) This section does not affect any rule of law or enactment relating to the protection of confidential information.

203J. Detention and release of goods-(1) Goods for which the Comptroller has suspended customs clearance must be taken to such secure place as the Comptroller directs and detained until:

- (a) the Comptroller revokes the notice as a result of a review; or
- (b) the Comptroller is served with an order made by the Court that the goods be released; or
- (c) any infringement proceedings are abandoned; or
- (d) 10 working days have elapsed since notification was given under section 203H and the Comptroller has not been served with a notice of infringement proceedings.

(2) On the occurrence of any matters specified in subsection (1), the goods must be released to the importer or to such other person as the Court may order.

(3) The Comptroller may, in any particular case, extend the period referred to in subsection (1)(d) to 20 working days if the Comptroller considers it appropriate to do so in all the circumstances.

203K. Forfeiture of goods by consent-(1) Subject to subsection (2), the importer may, by written notice to the Comptroller, consent to the detained goods being forfeited to the Comptroller.

(2) If the importer gives notice under this section, before any infringement proceedings have been filed, the goods are forfeited to the Comptroller and must be disposed of as the Comptroller directs.

203L. Destruction of goods in relation to trade marks-(1) If, in proceedings under the Trade Marks Act 1972, the Court decides that any goods infringe an owner's rights in relation to a registered trade mark, the Court may make an order that the goods be destroyed or disposed of outside the channels of commerce in such a manner so as to avoid harm to the owner of the registered trade mark.

(2) In considering whether to make an order for destruction or disposal, the Court must consider the rights of interested third parties.

(3) The following are not permitted:

- (a) re-exporting the goods in the unaltered state;

- (b) other than in exceptional cases, simply removing the trade marks which have been affixed to counterfeit goods without authorisation; or
- (c) placing the goods under a different customs procedure.

203M. Review of Comptroller's decision-(1) The Comptroller must on request of the claimant or the importer review the Comptroller's decision under section 203D.

(2) The Comptroller may modify, revoke or confirm the notice.

203N. Small quantity of imports excluded - This Part does not apply to small quantities of goods of a non-commercial nature contained in a passenger's personal luggage or sent in small consignments.

203O. Protection of persons acting under this Part - The Comptroller or any customs officer or agent exercising a function or power under this Part or regulations made under this Part shall not incur any civil or criminal liability for any act or omission done honestly and without negligence.

203P. Compensation for wrongful detention - On application by the importer, the Court may order the claimant to pay the importer appropriate compensation for any injury caused to the importer through the wrongful detention of goods because of the failure of the claimant to

4. Obstructing Customs officer or interfering with Customs property – Section 214 of the Principal Act is amended by deleting section 214 and inserting the following:

“214. Obstructing Customs officer or interfering with Customs property - Every person who:

- (a) otherwise than by force, intentionally obstructs any Customs officer or authorised person acting in the execution of the officer’s duties;
- (b) intentionally interferes with any equipment, vehicle, craft, dog, communication system or other aid used by the Customs;
- (c) does any act with the intention of impairing the effectiveness of any equipment, vehicle, craft, dog, communication system or other aid used, or intended for use, by the Customs,

is guilty of an offence upon conviction and is liable to imprisonment for a term not exceeding three (3) months or to a fine not exceeding 100 penalty units or both.”.