

No. 25 ] *Customs (Control and Management) (Amendment) Act* [ 2005.

I ASSENT

[L.S.]

PEARLETTE LOUISY,  
*Governor-General.*

*12th November, 2005.*

## SAINT LUCIA

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**No. 25 of 2005**

**AN ACT** to amend the Customs (Control and Management) Act 1990,  
No. 23 of 1990 to reform and modernize the customs process to  
accommodate ASYCUDA++.

[ 21st November, 2005 ]

BEITENACTED by the Queen's Most Excellent Majesty, by and with  
the advice and consent of the House of Assembly and the Senate of Saint  
Lucia, and by the authority of the same, as follows :

No. 25 ] *Customs (Control and Management) (Amendment) Act* [ 2005.

**Short title**

1. This Act may be cited as the Customs (Control and Management) (Amendment) Act 2005.

**Interpretation**

2. In this Act “principal Act” means the Customs (Control and Management) Act 1990, No. 23 of 1990.

**Amendment of section 2**

3. Section 2 of the principal Act is amended by adding in its proper alphabetical order the following definitions –

“declaration” means the provision of any information to customs whether verbally, in a document or in electronic form by a person or their agent relating to particular importations or exportations or intransit;

“document” includes –

- (a) a map, plan, drawing or photograph;
- (b) any information in writing relating directly or indirectly to goods which are imported, exported or in transit;
- (c) any declaration in writing required by the Comptroller;
- (d) any information recorded or stored by means of any tape recorder, computer hardware or software and any material subsequently derived from the information recorded or stored;
- (e) anything from which sounds or visual images are capable, with or without the aid of a device of being reproduced;
- (f) a copy, reproduction or duplicate of a document or part of such copy, reproduction or duplicate; or
- (g) anything on which there is writing;

“signature” includes –

- (a) an electronic signature which is –
  - (i) incorporated into, or otherwise logically associated with, any electronic communication or other electronic data;
  - (ii) generated by the signatory or other source of the communication or data;

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- (iii) used for the purpose of facilitating, by means of a link between the signatory or other source and the communication or data, the establishment of the authenticity of the communication or data, the establishment of its integrity or both;
  - (b) a key, in relation to any electronic data, used by means of a code, password, algorithm or other data the use of which, with or without keys –
    - (i) allow access to the data; or
    - (ii) facilitates the putting of the data into an intelligible form;
- “writing” includes electronically generated information which is accessible and capable of retention for subsequent reference;”.

**Amendment of section 25**

**4.** Section 25 of the principal Act is amended –

- (a) in subsection (1) –
  - (i) by deleting the word “within” where it appears in that subsection; and
  - (ii) by deleting the words “of that” where it appears in that subsection and substituting the word “before”;
- (b) in subsection (2) by deleting the word “upon” where it appears in that subsection and substituting the word “before”;
- (c) in subsection (3) by deleting the words “seventy-two” where it appears in that subsection and substituting the words “twenty-four”.

**Amendment of section 26**

**5.** Section 26 of the principal Act is amended by repealing subsection (1) and substituting the following –

“(1) The importer of any goods, other than goods which are exempt from the requirements of this section, and whether imported by air or sea, shall before entry of those goods transmit to the proper officer an entry of those goods, in such form and manner and containing such particulars as the Comptroller may direct.”.

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**Amendment of section 65**

6. Section 65 of the principal Act is amended in subsection (2) –
- (a) by inserting the words “on the date of initial registration of declaration” between the words “force” and “with”;
  - (b) in paragraph (a) by deleting the words “at the time of the delivery of the entry” where it appears in that paragraph and substituting the words “on the date of initial registration of declaration”;
  - (c) in paragraph (c) by deleting the words “at the time of delivery” where it appears in that paragraph and substituting the words “on the date of initial registration of declaration”.

**Amendment of section 102**

7. Section 102 of the principal Act is amended by repealing subsection (1) and substituting the following –

- “(1) Importers and exporters shall keep all commercial documentation relating to importation or exportation for a period of five years from the date of importation, exportation or carriage coastwise of any goods and any person concerned in that importation, exportation or carriage coastwise, or in the carriage, unloading, landing or loading of such goods shall –
- (a) furnish to any officer in such form and manner as he may require, any information relating to the goods;
  - (b) give access to any computer for the purposes of verification and audit;
  - (c) produce and permit the officer to inspect, take extracts from, make copies of or remove for a reasonable period, any invoice, bill of lading or other book or documents relating to the goods; and
  - (d) not tamper with any information or documents given pursuant to paragraphs (a) – (c) prior to its production, access or inspection.”.

**Addition of section 118A**

8. The principal Act is amended by adding the following section immediately after section 118 –

**“Computer fraud and related offences**

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118A. — (1) A person shall not knowingly or with intent to defraud the Government –

- (a) access a computer without authorization;
- (b) without authorization access any computer of the Customs Division that is exclusively for the use of the Customs Division, or in the case of a computer not exclusively for such use is used by or for the Customs Division;
- (c) access a computer without authorization and by means of such conduct –
  - (i) obtains any document, information or confidential instruction;
  - (ii) alters any document, information or confidential instruction;
  - (iii) introduces any information on the computer which is for the sole purpose of creating a computer virus or otherwise corrupts the computer;
- (d) use authorised access to –
  - (i) obtain or alter information on the computer that the person is not entitled to obtain or alter; or
  - (ii) introduce any information on the computer for the sole purpose of creating a computer virus or otherwise corrupt the computer.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars, or to imprisonment for a term not exceeding six years, or to both.

(3) For the purposes of this section –

“computer” means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions and includes any data storage facility or communications facility directly related to or operating in conjunction with such device, but does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device;

“Customs Division” means the Customs Division of the Ministry of Finance.”.

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Passed in the House of Assembly this 1st day of November, 2005.

J. BADEN ALLAIN,  
*Speaker of the House of Assembly.*

Passed in the Senate this 3rd day of November, 2005.

HILFORD DETERVILLE,  
*President of the Senate.*