

MONTserrat

**CUSTOMS (CONTROL AND MANAGEMENT)  
(AMENDMENT) ACT**

No. 7 of 2017

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I ASSENT

(Sgd.) Elizabeth Carriere  
Governor

DATE: 21.08.2017

M O N T S E R R A T

No. 7 of 2017

AN ACT TO AMEND THE CUSTOMS (CONTROL AND MANAGEMENT)  
ACT (CAP. 17.04).

BE IT ENACTED by The Queen's Most Excellent Majesty, by  
and with the advice and consent of the Legislative Assembly of  
Montserrat, and by the Authority of the same as follows:—

**1. Short title**

This Act may be cited as the Customs (Control and  
Management) (Amendment) Act, 2017.

**2. Interpretation**

In this Act, “**principal Act**” means the Customs  
(Control and Management) Act (Cap. 17.04).

**3. Long Title amended**

The Long Title of the principal Act is amended by  
inserting “and Excise” after “Customs”.

**4. Replacement of “Customs”**

The following sections of the principal Act are amended by deleting “Customs” and substituting “the Customs and Excise Unit”—

- (a) section 20(2);
- (b) section 25(2);
- (c) section 28(1), (2), (3) and (4);
- (d) section 29(1);
- (e) section 30(1);
- (f) section 32(1);
- (g) section 35(1) and (4);
- (h) section 36(1);
- (i) section 37(3);
- (j) section 38(1), (2), (3) and (5);
- (k) section 39(1);
- (l) section 47(1) and (4);
- (m) section 48(2) and (3);
- (n) section 49(1) and (2);
- (o) section 50(1);
- (p) section 56(1) and (2);
- (q) section 57(1), (2), (5) and (6);
- (r) section 60(1) and (2);
- (s) section 61(1);
- (t) section 65(1) and (2);
- (u) section 66(2) and (3);
- (v) section 87(3);
- (w) section 93(1) and (2);
- (x) section 99(1);
- (y) section 103(1);
- (z) the heading to section 109;

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(aa) section 118(1); and

(bb) section 119(1).

**5. Section 2 amended**

Section 2 of the principal Act is amended by—

(a) deleting the definitions of “Customs”, “Customs Appeal Commissioners”, “declaration”, “entry”, “entered”, “importer”, “Minister” and “officer” and substituting the following—

“**Commissioner**” means a person appointed as a Customs and Revenue Commissioner under section 17 of the Montserrat Customs and Revenue Services (Enabling) Act 2017 (No. 6 of 2017);”;

“**Customs and Excise Unit**” means the unit of the Government headed by the Comptroller;”;

“**declaration**” means the provision of information to the Customs and Excise Unit by a person or his agent, relating to particular items which are imported, exported or in transit;”;

“**entered**”, —

(a) in relation to goods imported, warehoused, put on board an aircraft or ship as stores or exported, means the registration with the Customs and Excise Unit of an entry, specification or shipping bill and declaration signed by the importer or exporter on the prescribed form and in the prescribed manner, together with the payment to the Customs and Excise Unit by the importer or exporter of all rents and charges due to the Government in respect of the goods;

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(b) in the case of dutiable goods, except on the entry for warehousing of imported goods, means the payment by the importer or exporter to the Customs and Excise Unit of the full duties or else, if permitted, the deposit of a sum of money or giving of security for the duties, as provided by law; or

(c) in the case of goods for which security by bond is required on the exportation, putting on board an aircraft or ship as stores or removal of the goods, means the giving of the security;”;

“**entry**”, in relation to—

(a) the importation or exportation of goods, means a document delivered to the Customs and Excise Unit in accordance with section 26(1) or section 34(1); or

(b) a vessel or aircraft, means a document delivered to the Customs and Excise Unit in accordance with section 35(2);”;

“**importer**”, in relation to goods at any time between their importation and the time when they are delivered out of the charge of the Customs and Excise Unit, includes an owner or other person possessed of or beneficially interested in the goods;”;

“**Minister**” means the Minister with the responsibility for Customs and Excise;”;

“**officer**” means, subject to section 5(2), a person employed in the Customs and Excise Unit of the Ministry of Finance;”;

(b) inserting the following definition in the correct alphabetical order—

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“**Government**” means Her Majesty's  
Government of Montserrat;”.

**6. Replacement of “Customs Appeal Commissioners”**

The principal Act is amended by deleting “Customs Appeal Commissioners” wherever it appears and substituting “Commissioners”.

**7. Section 3 amended**

Section 3(1) of the principal Act is deleted and the following is substituted—

“(1) This section has effect for the purposes of a customs enactment.”.

**8. Section 7 amended**

Section 7(1) of the principal Act is amended by deleting “offices of Customs” and substituting “the Customs and Excise Unit”.

**9. Section 17 amended**

Section 17(1) of the principal Act is amended by deleting “customs charge” and substituting “the charge of the Customs and Excise Unit”.

**10. Section 19 amended**

Section 19(2) of the principal Act is amended by deleting “customs charge” and substituting “the charge of the Customs and Excise Unit”.

**11. Section 64 amended**

Section 64 of the principal Act is amended—

- (a) in subsection (8), by deleting “(customs) warehouse” and substituting “customs warehouse”; and
- (b) in subsection (9), by deleting “Customs warehouse” and substituting “customs warehouse”.

**12. Section 66 amended**

Section 66(1) of the principal Act is amended by deleting “enactment relating to customs” and substituting “customs enactment”.

**13. Section 120 amended**

Section 120(2) of the principal Act is amended by deleting “Customs enactment” and substituting “customs enactment”.

**14. Section 138 deleted**

Section 138 of the principal Act is deleted.

**15. Section 139 amended**

Section 139 of the principal Act is amended—

(a) by inserting the following as subsection (5A)—

“(5A) The Commissioners shall determine the procedure to be followed at a hearing.”;

(b) by deleting subsection (6) and substituting the following—

“(6) At a hearing of an appeal—

(a) the Commissioners have—

(i) the power to—

(A) summon a person who in their opinion may be able to give evidence relevant to the matter before the Commissioners, to attend the hearing;

(B) examine under oath or affirmation a person summoned under sub-subparagraph (A);

(C) require a person to produce a document which is in his custody or under his control and which the Commissioners consider may contain evidence relevant to the

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- matter before the  
Commissioners;
- (D) admit or reject any evidence  
adduced; and
- (E) postpone or adjourn the hearing;  
and
- (ii) the powers of a subordinate court  
with respect to the enforcement of  
the attendance of a witness, the  
hearing of evidence under oath or  
affirmation and punishment for  
contempt;
- (b) the Comptroller and the appellant—
- (i) are entitled to appear in person or by  
representation; and
- (ii) shall bear their own costs unless the  
Commissioners, for special cause,  
otherwise direct; and
- (c) the burden of proof on a matter shall lie  
with the appellant;” and
- (c) by deleting subsection (7) and substituting the  
following—
- “(7) On the hearing of an appeal,—
- (a) if there is a division of opinion at a  
hearing, the decision of the majority  
shall prevail; and
- (b) the Commissioners may increase,  
decrease or confirm the amount of  
duty due and shall notify the  
Comptroller and the appellant of  
their decision.
- (7A) The Chairperson or Deputy  
Chairperson shall sign the decision  
of the Commissioners arising from a  
hearing at which he presides.”.



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**16. Second Schedule amended**

Paragraph 7(1) of the Second Schedule to the principal Act is amended by deleting “Customs” and substituting “customs”.

**17. Third Schedule amended**

Part 2 of the Third Schedule to the principal Act is amended by deleting “Comptroller of Customs and Excise” wherever it appears and substituting “Comptroller”.

**18. Fourth Schedule amended**

Paragraph 3 of the Fourth Schedule to the principal Act is amended by deleting “at any customs office”.

(Sgd.) Shirley Osborne  
**SPEAKER**

Passed by the Legislative Assembly this 27<sup>th</sup> day of July, 2017.

(Sgd.) Judith Baker  
**CLERK OF THE LEGISLATIVE ASSEMBLY**