

MALTA

ATT Nru. VIII ta' l-1995

ATT mahruġ b'ligi mill-Parlament ta' Malta.

ATT biex jirregola l-hruġ ta' liċenzi lil operaturi tal-*bunkering* u biex jagħmel taxxa fuq żjut mogħtija bi provvista għall-*bunkering*.

ACT No. VIII of 1995

AN ACT enacted by the Parliament of Malta.

AN ACT to regulate the issuing of licences to bunker operators and to levy a tax on fuels supplied for bunkering.

Nagħti l-kunsens tiegħi.

(L.S.)

UGO MIFSUD BONNICI
President

28 ta' April, 1995

ATT Nru. VIII ta' l-1995

ATT biex jirregola l-ħruġ ta' liċenzi lil operaturi tal-bunkering u biex jagħmel taxxa fuq żjut mogħtija bi provvista għall-bunkering.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'ligi dan li ġej:—

1. Dan l-Att jista' jissejjaħ l-Att ta' l-1995 dwar it-Taxxa fuq *Bunkering* ta' Żjut. Titolu fil-qosor.

2. F'dan l-Att kemm-il darba r-rabta tal-kliem ma teħtieġx mod ieħor: Tifsir.

“Awtorità” tfisser l-Awtorità Marittima ta' Malta mwaqqfa bl-Att ta' l-1991 dwar l-Awtorità Marittima ta' Malta u tinkludi lil kull uffiċjal jew impjegat ta' l-Awtorità; Att Nru. XVIII ta' l-1991.

“bastiment” tfisser kull deskrizzjoni ta' biċċa tal-baħar ta' liema kobor tkun li tithaddem fit-tbaħħir, sew jekk timxi wahedha sew jekk le, u tinkludi braken, *rigs* taż-żejt, puntuni u kull biċċa oħra tal-baħar bħal dawn;

“*bunkering*” tfisser it-tagħbija, hatt u trasferiment ta' żjut bejn *bunker barge* jew *road tanker* jew terminal marittimu jew faċilità marittima jew xi tnejn jew iktar minn dawk imsemmija qabel u bastiment li jirċievi meta ż-żjut imsemmija jkunu biex iħaddmu l-istess bastiment jew il-makkinarju tiegħu;

“Dwana” tfisser il-Kontrollur tad-Dwana u tinkludi kull uffiċjal jew impjegat tad-dipartiment tiegħu li jkollu awtorità espressa jew impliċita li jaġixxi f'isem il-Kontrollur;

“Ministru” kemm-il darba ma jiġix indikat mod ieħor tfisser il-Ministru responsabbli għall-finanzi;

“żejt” tfisser kull *non-volatile marine grade fuel oil* li jintuża biex iħaddem bastiment jew il-makkinarju tiegħu u jinkludi żejt lubrikanti kif ukoll dawk il-prodotti li jinsabu taħt is-subintestaturi H.S. 2710.00.69.00 u H.S. 2710.00.78.00 fl-Ewwel Skeda li tinsab ma’ l-Att dwar id-Dazji ta’ Importazzjoni.

Kap. 337.

Gbir ta’ taxxa.

3. Għandha tintalab u tingabar mid-Dwana f’isem il-Gvern ta’ Malta taxxa fuq żjut elenkati fl-Iskeda li tinsab ma’ dan l-Att, li jiġu fornuti, bla ħlas ta’ kull dazju ta’ dwana jew dazju ieħor, għall-bunkering tal-bastimenti bir-rati murija fl-Iskeda li tinsab ma’ dan l-Att.

Zmien u mod kif tithallas it-taxxa.

4. (1) Il-ħlas tat-taxxa jkun dovut minnufih malli ż-żejt jiġi rilaxxat mill-istallazzjoni ta’ depożt, terminal marittimu jew faċilità marittima fuq il-kwantità ta’ żejt meqjusa jew kalkolata mid-Dwana bhala dik meħlusa.

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1) ta’ dan l-artikolu, id-Dwana tista’ tagħmel kull arrangament, kif sugġett għal dawk il-garanziji u kondizzjonijiet li tista’ timponi, għall-ħlas tat-taxxa li tingabar bis-saħħa ta’ dan l-Att meta dan il-ħlas ma jsirx mal-ħelsien taż-żjut kif hemm imsemmi fis-subartikolu (1) ta’ dan l-artikolu, u f’dawk l-intervalli ta’ żmien li jista’ jsir ftehim dwarhom.

Responsabbiltà għall-bunkering ta’ żjut.

Kap. 272.

5. (1) Minkejja d-dispożizzjonijiet tas-subartikolu (2) ta’ l-artikolu 3 u tal-paragrafu (b) tas-subartikolu (1) ta’ l-artikolu 37 ta’ l-Att dwar l-Enemalta li għandhom x’jaqsmu ma’ l-importazzjoni, akkwist, manifattura, żamma, ħzin, tqassim, bejgħ, esportazzjoni jew kull tneħħija ohra ta’ żjut jew ta’ xi għamla tagħhom, jew maż-żamma jew l-użu ta’ xi tank, pompa jew apparat mekkaniku ieħor sabiex jinħażen, jinbiegħ jew jiġi provdut żejt għall-bunkering, l-Awtorità Marittima ta’ Malta għandu jkollha l-awtorità waħdanija u esklużiva li twettaq kontroll u sorveljar shih fuq kull haġa li dwarha tista’ toħroġ liċenza jew tidhol fi ftehim jew tagħmel arrangamenti bis-saħħa ta’ l-artikolu 6 ta’ dan l-Att.

(2) Hadd f’Malta ma jista’ jagħmel xi haġa li dwarha jkunu meħtieġa xi liċenza, ftehim jew arrangamenti bis-saħħa ta’ l-artikolu 6 ta’ dan l-Att kemm-il darba ma jkollux dik il-liċenza, u hadd ma jista’ jqassam, ibiegh, ibiegh fit-toroq, jesporta jew xort’ohra jneħħi żejt provdut għal bunkering skond dik il-liċenza, hlief skond dik il-liċenza, dak il-ftehim jew dak l-arrangament.

Għoti ta’ liċenzi mill-Awtorità.

6. (1) L-Awtorità tista’, fid-diskrezzjoni tagħha u taħt dawk il-pattijiet u l-kondizzjonijiet li jidhrilha xierqa, tagħti liċenza lil kull —

(a) ċittadin ta’ Malta;

(b) korp magħqud stabbilit bis-saħħa u skond il-ligijiet ta’ Malta li jkollu l-post prinċipali tan-negozju tiegħu f’Malta jew li jkollu post tan-negozju f’Malta,

ghat-tqassim, bejgħ, esportazzjoni jew tneħħija b'kull mod iehor ta' żjut mogħtija bi provvista għall-*bunkering*. L-Awtorità tista' wkoll tagħmel kull arrangament u tagħmel kull ftehim, kif jidhrilha xieraq jew spedjenti, ma' xi persuna għal kull wiehed mill-imsemmija għanijiet, jew dwar xi waħda mill-funzjonijiet tagħha skond dan l-Att.

(2) Liċenza maħruġa skond is-subartikolu (1) ta' dan l-artikolu u kull arrangament jew ftehim magħmul bis-saħħa tiegħu, għandhom, sakemm jiġgeddu, ikunu validi għaż-żmien li tkun inġhatat, giet magħmula jew imġedda:

Iżda jekk ma jiġix speċifikat ebda żmien ta' validità kull liċenza, arrangament jew ftehim jibqgħu validi sal-31 ta' Diċembru tas-sena li fiha jkunu ngħataw, ġew magħmula jew imġedda.

(3) Għandhom jithallsu mal-ħruġ u mat-tiġdid ta' kull liċenza dawk id-drittijiet li jistgħu jiġu preskritti mill-Awtorità.

(4) Liċenza maħruġa skond dan l-artikolu, u kull arrangament jew ftehim li għalih japplika l-proviso tas-subartikolu (2) ta' dan l-artikolu, jistgħu f'kull żmien jiġu sospizi jew revokati mill-Awtorità jekk ikun hemm ċirkostanzi fejn, fil-fehma ta' l-Awtorità, xi liċenza, arrangament jew ftehim bħal dawk għandu jiġi sospiz jew revokat.

(5) Meta xi persuna taġixxi bi ksur ta' xi patt jew kondizzjoni ta' liċenza mogħtija minn, jew ta' arrangament jew ftehim li jsir ma' l-Awtorità, din għandha titqies li kienet qed taġixxi mingħajr dik il-liċenza, jew dak l-arrangament jew ftehim.

(6) L-Awtorità għandu jkollha l-poter esklussiv li toħroġ il-liċenzi u li tagħmel l-arrangamenti jew ftehim imsemmija f'dan l-artikolu, iżda l-ħruġ ta' liċenza minn, jew l-għemil ta' xi arrangament jew ftehim ma' l-Awtorità ma jeżenta lil ebda persuna mill-ħtiġijiet ta' kull liġi oħra.

7. (1) Il-Ministru jista' b'avviż fil-Gazzetta jemenda jew jissostitwixxi r-rati ta' taxxa li jidhru fl-Iskeda li tinsab ma' dan l-Att:

Setgħa għall-għemil ta' regolamenti.

Iżda l-Ministru ma jistax b'dak l'avviż iżid ir-rata ta' taxxa li għandha tingabar skond dan l-Att għal iktar minn lira (Lm1) għal kull tunnellata metrika jew parti minnha.

(2) Il-Ministru responsabbli għall-portijiet jista', wara konsultazzjoni ma' l-Awtorità u bi ftehim mal-Ministru, jagħmel regolamenti:

(a) li jirregolaw il-mod li bih jiġu registrati u tinhareġ liċenza lil operaturi tal-*bunkering*;

(b) li jippreskrivu l-ħtiġiet li jridu jiġu sodisfatti sabiex issir dik ir-registrazzjoni jew tinhareġ liċenza, magħdudin it-tiġdid u t-temma tagħhom;

(c) li jistabbilixxu l-kondizzjonijiet u l-parametri li permezz tagħhom għandhom isiru l-operazzjonijiet tal-*bunkering*;

(d) li jippreskrivu u jirregolaw il-livelli li għandhom jiġu applikati u miżmuma f'terminali u faċilitajiet marittimi kif ukoll fuq *bunker barges*, b'mod speċjali għar-rigward ta' l-inkolumità f'dawk il-lokalitajiet u l-ħarsien minn tingis marittimu;

(e) li jippreskrivu drittijiet u hlasijiet oħra li jistgħu jkunu jew li jkunu meħtieġa li jiġu preskritti minn jew skond id-dispożizzjonijiet ta' dan l-Att;

(f) li jippreskrivu u xort'oħra jagħmlu dispożizzjonijiet dwar kull haġa li tista' tkun meħtieġa jew li tenħtieġ li tiġi preskritta b'dan l-Att u dwar kull haġa oħra li tista' tidher li tkun meħtieġa jew spedjenti għall-aħjar twettieq tad-dispożizzjonijiet ta' dan l-Att.

Setgħat ta' l-Awtorità, tal-Pulizija u tad-Dwana.

8. (1) Ir-rilaxx ta' żejt għall-*bunkering* għandu jingħata taħt is-supervizjoni tad-Dwana. L-Awtorità jkollha jedd tissorvelja kull operazzjoni ta' *bunkering* u tista' titlob hlasijiet għal kull supervizjoni bħal dik hekk kif jista' jiġi preskrit b'regolamenti.

(2) Kull uffiċjal ta' l-Awtorità, tal-Pulizija jew tad-Dwana għandu jedd f'kull hin li jispezzjona kull imkien fejn jinħażen jew jinżamm xi żejt sabiex jiżgura li d-dispożizzjonijiet ta' dan l-Att ikunu qegħdin jiġu osservati u li ma jkunx hemm evażjoni tat-taxxa, drittijiet u hlasijiet imposti b'dan l-Att.

Reati u pieni.

9. (1) Kull min:

(a) huwa b'xi mod involut f'xi evażjoni bi frodi jew tentattiv ta' evażjoni ta' taxxa imposta b'dan l-Att; jew

(b) jgħin, iħajjar jew jassisti fit-twettieq tar-reati msemmija fil-paragrafu ta' qabel; jew

(ċ) xjentement jostakola, iwaqqaf jew idewwem lil xi uffiċjal ta' l-Awtorità, tad-Dwana jew tal-Pulizija fl-eżekuzzjoni tad-dmirijiet u setgħat tiegħu taħt dan l-Att; jew

(d) jikser xi jew kull dispożizzjoni oħra ta' dan l-Att,

ikun ħati ta' reat u għandu għal kull reat bħal dak jehel, meta jinsab ħati mill-Qorti tal-Maġistrati, multa li tkun daqs darbtejn il-valur taż-żejt u t-taxxa fuq dak iż-żejt li dwaru jkun sar ir-reat, jew ta' elf lira, skond liema tkun l-aktar.

(2) Ir-responsabbiltà imposta bis-subartikolu (1) ta' dan l-artikolu għandha tkun mingħajr preġudizzju għal kull responsabbiltà oħra imposta f'kull liġi oħra għall-istess reat.

Eżenzjoni mit-taxxa, jew għoti lura ta' taxxa.

10. Il-Ministru jista' b'ordni, u bla ħsara għal dawk il-limitazzjonijiet li jagħmel f'dak l-ordni, jeżenta lil persuna mill-ħlas tat-taxxa imposta b'dan l-Att jew jippermetti l-għoti lura ta' dik it-taxxa.

11. Sakemm jiġi emendat l-Att dwar id-Dazji ta' Importazzjoni (Kap. 337) permezz ta' l-Abbozz ta' Liġi msejjaħ "Att biex ikompli jemenda l-Att dwar id-Dazji ta' l-Importazzjoni, Kap. 337", Abbozz Nru. 118, moqri l-ewwel darba fis-7 ta' Diċembru, 1994 ir-referenzi għal "H.S. 2710.00.69.00" u "H.S. 2710.00.78.00" fl-artikolu 2 u fl-Iskeda għandhom jinqraw rispettivament bħala "H.S. 2710.00.93" u "H.S. 2710.00.94".

Dispożizzjoni
transitorja.

SKEDA

(Artikolu 3)

Żjut li jinsabu taht H.S. 2710.00.69.00; taxxa ta' 40 ċenteżmu għal kull tunnellata metrika jew parti minnha.

Żjut li jinsabu taht H.S. 2710.00.78.00; taxxa ta' 20 ċenteżmu għal kull tunnellata metrika jew parti minnha.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 414 tal-25 ta' April, 1995.

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

LAWRENCE GONZI
Speaker

I assent.

(L.S.)

UGO MIFSUD BONNICI
President

28th April, 1995

ACT No. VIII of 1995

AN ACT to regulate the issuing of licences to bunker operators and to levy a tax on fuels supplied for bunkering.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:—

Short title.

1. This Act may be cited as the Bunkering (Fuels) Tax Act, 1995.

Interpretation.

2. In this Act unless the context otherwise requires:

Act No. XVII of 1991.

“Authority” means the Malta Maritime Authority established under the Malta Maritime Authority Act, 1991 and includes any officer or employee of the Authority;

“bunkering” means the loading, discharging and transferring of fuels between a bunker barge or a road tanker or a marine terminal or a marine facility or any two or more of the preceding, to a receiving ship where those fuels are for fuelling the same ship or its machinery;

“Customs” means the Comptroller of Customs and includes any officer or employee of his department having an expressed or implied authority to act for the Comptroller;

Cap. 337.

“fuel” means any non volatile marine grade fuel oil used to fuel a ship or its machinery and includes lubricating oil and also those products falling under sub-headings H.S. 2710.00.69.00 and H.S. 2710.00.78.00 in the First Schedule to the Import Duties Act;

“Minister” unless otherwise stated means the Minister responsible for finance;

“ship” means every description of vessel of any size used in navigation, whether self propelled or not, and includes barges, oil rigs, pontoons and any other craft and similar vessels.

3. There shall be charged and levied by Customs on account of the Government of Malta a tax on fuels listed in the Schedule to this Act, supplied free from customs and other duties, for bunkering to ships, at the rates shown in the Schedule to this Act.

Levy of tax.

4. (1) The payment of the tax shall be due immediately upon the release of the fuel from the bonded installation, marine terminal or marine facility on the quantity of fuel measured or calculated by Customs as having been released.

Time and manner of payment of tax.

(2) Notwithstanding the provisions of subsection (1) of this section, Customs may make arrangements, subject to such guarantees and conditions as it may impose, for the payment of the tax leviable under this Act otherwise than on the release of fuels as mentioned in subsection (1) hereof, and at such intervals as may be agreed.

5. (1) Notwithstanding the provisions of subsection (2) of section 3 and of paragraph (b) of subsection (1) of section 37 of the Enemalta Act relating to the importation, acquiring, manufacture, keeping, storing, distributing, selling, exporting or otherwise disposing of fuels or any form thereof, or to the keeping or using of any tank, pump or other mechanical device for the purpose of the storage, sale or supply of fuel for bunkering, the Malta Maritime Authority shall have the sole and exclusive authority to exercise overall control and supervision over all matters for which it may grant a licence or enter into agreements or make arrangements under section 6 of this Act.

Responsibility for bunkering of fuels.

Cap. 272.

(2) No person shall in Malta do any matter for which a licence agreement or arrangement is required under section 6 of this Act unless he is in possession of such licence, and no person shall distribute, sell, hawk, export or otherwise dispose of fuel supplied for bunkering in accordance with such a licence, otherwise than in accordance with such licence, agreement or arrangement.

6. (1) The Authority may, in its discretion and under such terms and conditions as it may deem appropriate, grant a licence to any —

Grant of licences by the Authority.

(a) citizen of Malta;

(b) body corporate established under and subject to the laws of Malta having its principal place of business in Malta or having a place of business in Malta;

for the distribution, sale, exportation or disposal in any other manner of fuels supplied for bunkering. The Authority may also make any arrangements or enter into any agreement, as it may deem appropriate or expedient, with any person for any of the purposes aforesaid, or in connection with any of its functions under this Act.

(2) A licence issued under subsection (1) of this section and any arrangement or agreement made thereunder shall, subject to their renewal, be valid for such period for which it is granted, made or renewed:

Provided that if no period of validity is so specified any licence, arrangement or agreement shall be valid until the 31st December of the year in which it is granted, made or renewed.

(3) There shall be payable on the issue and renewal of each licence such fees as may be prescribed by the Authority.

(4) A licence issued under this section, and any arrangement or agreement to which the proviso to subsection (2) of this section applies, may at any time be suspended or revoked by the Authority if circumstances exist which, in the opinion of the Authority, any such licence, arrangement or agreement should be suspended or revoked.

(5) Where a person acts in breach of any term or condition of a licence granted by, or of an arrangement or other agreement made with the Authority, he shall be deemed to have acted without such a licence, arrangement or agreement.

(6) The Authority shall have the exclusive authority to issue licences and to make any arrangement or agreement referred to in this section, but the issue of a licence by, or the making of any arrangement or agreement with the Authority shall not exempt any person from the requirements of any other enactment.

Power to make regulations.

7. (1) The Minister may by notice in the Gazette amend or substitute the rates of tax appearing in the Schedule to this Act:

Provided that the Minister may not by such notice increase the rate of tax leviable in accordance with this Act to more than one lira (Lm1) per metric ton or part thereof.

(2) The Minister responsible for ports may, in consultation with the Authority, and with the concurrence of the Minister make regulations:

(a) regulating the mode of registration and licensing of bunker operators;

(b) prescribing the requirements that have to be satisfied for such registration and licensing, including their renewal and termination;

(c) setting out the conditions and parameters under which bunkering operations shall be carried out;

(d) prescribing and regulating the standards that must be applied and maintained at marine terminals and facilities and on bunker barges, especially with regard to the safety at such places and the prevention of marine pollution;

(e) prescribing fees and other charges which may be or are required to be prescribed by or under the provisions of this Act;

(f) prescribing and otherwise making provision with respect to any matter which may be or is required to be prescribed by this Act and with respect to any other matter which may appear to be necessary or expedient for the better carrying out of the provisions of this Act.

8. (1) The release of fuel for bunkering shall take place under the supervision of Customs. The Authority shall have the right to supervise any bunkering operations and may impose charges for such supervision as may be prescribed by regulations.

Power of the Authority, of the Police and Customs.

(2) It shall be lawful for any officer of the Authority, Police or Customs to inspect at any time any place where fuel is stored or handled to ensure that the provisions of this Act are being complied with and that there is no evasion of the tax, fees and charges imposed by this Act.

9. (1) Any person who:

Offences and penalties.

(a) is in any way concerned in any fraudulent evasion or attempt at evasion of any tax imposed by this Act; or

(b) aids, abets or assists in the commission of the offences referred to in the foregoing paragraph; or

(c) wilfully obstructs, impedes or delays any Authority, Customs or Police officer in the execution of his duties and powers under this Act; or

(d) contravenes any other provision of this Act,

shall be guilty of an offence and shall for every such offence be liable, on conviction by the Court of Magistrates, to a fine (*multa*) equivalent to twice the value of the fuel and the tax on the said fuel involved in the offence, or one thousand liri, whichever is the higher.

(2) The liability imposed by subsection (1) of this section shall be without prejudice to any other liability imposed by any other law for the same offence.

10. The Minister may by order, and, subject to such limitations in such order, exempt any person from the payment of the tax imposed by this Act or allow the refund of such tax.

Exemption or refund of tax.

Transitory
provision.

11. Until the Import Duties Act (Cap. 337) is amended by the Bill entitled "An Act further to amend the Import Duties Act, Cap. 337", Bill No. 118, read for the first time on the 7th December, 1994, the references to "H.S. 2710.00.69.00" and "H.S. 2710.00.78.00" in section 2 and in the Schedule shall be read respectively as "H.S. 2710.00.93" and "H.S. 2710.00.94".

SCHEDULE

(Section 3)

Fuel falling under H.S. 2710.00.69.00; a tax of 40 cents per metric ton or part thereof.

Fuel falling under H.S. 2710.00.78.00; a tax of 20 cents per metric ton or part thereof.

Passed by the House of Representatives at Sitting No. 414 of 25th April, 1995.

RICHARD J. CAUCHI
Clerk to the House of Representatives

LAWRENCE GONZI
Speaker