

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE CUSTOMS LAW (2012
REVISION) TO PROVIDE FOR REQUIREMENTS FOR INWARD AND
OUTWARD DOCUMENTATION FOR SHIPS AND AIRCRAFT; AND TO
PROVIDE FOR INCIDENTAL AND CONNECTED MATTERS**

THE CUSTOMS (AMENDMENT) BILL, 2016

MEMORANDUM OF OBJECTS AND REASONS

This Bill amends the Customs Law (2012 Revision).

Clause 1 provides the short title.

Clause 2 amends section 2 to insert the definitions “arrival”, “cleared”, “electronic address”, “electronically”, “give”, “in-transfer”, “inter-Island”, “inward”, “notified by Customs”, “on board”, “outward” and “required”.

Clause 3 inserts new section 12A. New section 12A will require inward ship masters and aircraft commanders to give Customs certain documents about passengers, goods and other matters, electronically in advance.

Clause 4 amends section 14 to make reports under that section for arriving ships and aircraft consistent with the new sections inserted under clauses 3 and 5.

Clause 5 inserts new section 32A. New section 32A will require outward and inter-Island ship masters and aircraft commanders to give Customs a report and manifest in advance about passengers, goods and other matters, electronically before leaving (subject to an exception for emergencies).

Clause 6 inserts new sections 74A and 74B. New section 74A has machinery provisions for the giving of notices by Customs to clarify how they can be lawfully given electronically (the Electronic Transactions Law (2003 Revision) not being satisfactory for this purpose). New section 74B has evidentiary provisions for proceedings. Those provisions will allow Customs to prove the giving of documents and other machinery matters by a certificate signed by the chief officer. This will save having to call individuals with knowledge of the matter to have to give evidence in person.

THE CUSTOMS (AMENDMENT) BILL, 2016

ARRANGEMENT OF CLAUSES

1. Short title
2. Amendment of section 2 of the Customs Law (2012 Revision) - definitions
3. Insertion of section 12A - advance documentation for inward ships and aircraft
4. Amendment of section 14 - master or commander to make report
5. Insertion of section 32A - advance documentation for outward and inter-Island ships and aircraft
6. Insertion of sections 74A and 74B - electronic notices by Customs - evidentiary provisions

CAYMAN ISLANDS

A BILL FOR A LAW TO AMEND THE CUSTOMS LAW (2012 REVISION) TO PROVIDE FOR REQUIREMENTS FOR INWARD AND OUTWARD DOCUMENTATION FOR SHIPS AND AIRCRAFT; AND TO PROVIDE FOR INCIDENTAL AND CONNECTED MATTERS

ENACTED by the Legislature of the Cayman Islands.

PART 1 - PRELIMINARY

1. This Law may be cited as the Customs (Amendment) Law, 2016.
2. The Customs Law (2012 Revision), in this Law referred to as the “principal Law”, is amended in section 2 by inserting, in the appropriate alphabetical sequence, the following definitions -

Short title

Amendment of section 2 of the Customs Law (2012 Revision) - definitions

“arrival” means arrival in a port or in the airport;

“cleared” means cleared through Customs;

“electronic address” includes an email address, an internet protocol (IP) address and the address of a digital mailbox;

“electronically”, in relation to the giving of a document to Customs under this Law, means to give it electronically to an electronic address notified by Customs for that purpose;

“give”, in relation to the giving of a document by Customs and *vice versa*, means to deliver, send, transmit or make the document;

“in-transfer”, in relation to passengers or goods on an inward, inter-Island or outward ship or aircraft, means that the passengers or goods are ultimately bound for a destination outside the jurisdiction;

“inter-Island”, in relation to a ship or aircraft, means that it is to journey is from one Island in the jurisdiction to another Island in the jurisdiction, or is about to start such a journey;

“inward” in relation to -

- (a) a ship or aircraft, means that it is to journey to the jurisdiction from a place outside the jurisdiction, or has just finished such a journey;
- (b) passengers on a ship or aircraft, means passengers on board a ship or aircraft who will finish their journey on the ship or aircraft in the jurisdiction, or who are about to start such a journey;

“notified by Customs”, in relation to a person in relation to a purpose under this Law, means -

- (a) notified to the person in a written notice from Customs;
- (b) as told to the person by Customs; or
- (c) notified by a post on the Customs website to persons generally for that purpose;

“on board”, in relation to a provision about a ship or aircraft, means on board the ship or aircraft;

“outward” in relation to -

- (a) a ship or aircraft, means that it is to journey from the jurisdiction to a place outside the jurisdiction, or is about to start such a journey;
- (b) passengers on a ship or aircraft, means passengers on board the ship or aircraft who will finish their journey on the ship or aircraft in a place outside the jurisdiction, or who are about to start such a journey;

“required” in relation to -

- (a) the form of a document under this Law, means the form or manner as notified by Customs for the document; or
- (b) particulars of a document or matter under this Law, means the particulars as notified by customs for the document or matter.”.

3. The principal Law is amended by inserting after section 12 the following section -

“Advance
documentation
for inward
ships and
aircraft

Insertion of section
12A - advance
documentation for
inward ships and aircraft

12A. (1) The master or commander of an inward ship or aircraft shall give Customs the following documents electronically, or cause them to be so given -

- (a) a written notice of the ship's or aircraft's expected arrival time;
- (b) a passenger and crew manifest; and
- (c) if there are or will be any imported or in-transfer goods on board, a goods manifest.

(2) A master shall give, or cause the giving of, the documents at least forty-eight hours before the inward journey ends.

(3) A commander shall give, or cause the giving of, the documents before the aircraft's inward journey starts.

(4) The passenger and crew manifest shall state the following for those on board -

- (a) the number of inward passengers;
- (c) the number of in-transfer passengers;
- (b) the following particulars for each passenger (inward or in-transfer) -
 - (i) their first and last names, sex, date of birth and nationality; and
 - (ii) any other required particulars; and
- (d) the first and last names of each crew member and of anyone else on board, including, for example -
 - (i) a stowaway; and
 - (ii) for an inward ship, a person rescued at sea.

(5) The goods manifest shall state -

- (a) the marks, numbers and contents of each container of imported or in-transfer goods; and
- (b) if the master or commander knows the name of the consignee of any or all of the imported or in-transfer goods, the consignee's name.”.

Amendment of section
14 - master or
commander to make
report

4. Section 14 of the principal Law is amended as follows -

- (a) by deleting the marginal note and repealing subsections (1), (2) and (3) and by substituting the following marginal note and subsections -

“Arrival
report for
inward
ships and
aircraft

14. (1) This section applies to -

- (a) the master of an inward ship on arrival if the ship is carrying inward passengers or imported goods, which passengers or goods have not been cleared; and
- (b) the commander of an inward aircraft on arrival if the aircraft is carrying -
- (i) inward passengers or imported goods, which passengers or goods have not been cleared; or
- (ii) in-transfer passengers or goods.

(2) The master or commander shall give Customs a written report in the form and manner notified by Customs -

- (a) stating the place at which the ship’s or aircraft’s journey to the jurisdiction started and any other required particulars; and
- (b) producing evidence that the master or commander was given a proper clearance from that place.

(3) The report shall be given -

- (a) generally, immediately on arrival; or
- (b) if, because of a circumstance beyond the master’s or commander’s control, the report cannot be made on arrival, immediately after the circumstance ceases.”;

- (b) in subsection (4), by deleting the words “by or under subsection (1)” and substituting the words “under subsection (2), either at all or at the times required under subsection (3).”;
- (c) in subsection (5), by deleting the words “voyage or flight” and substituting the word “journey”; and
- (d) in subsections (6) and (6A), by deleting the words “brought therein from any place outside the Islands arrives within the

jurisdiction” and substituting the words “arrives from a place outside the jurisdiction”.

5. The principal Law is amended by inserting after section 32 the following section -

Insertion of section 32A - advance documentation for outward and inter-Island ships and aircraft

“Advance documentation for outward and inter-Island ships and aircraft

32A. (1) This section applies to the master or commander of -

- (a) an outward ship or aircraft that is to carry outward passengers or exported goods, which passengers or goods have not been cleared; or
- (b) an inter-Island ship or aircraft carrying passengers or goods.

(2) For an outward ship, this section applies as well as section 32.

(3) The master or commander shall give Customs the following documents electronically, or cause them to be so given -

- (a) a written report in the required form stating -
 - (i) the ship’s or aircraft’s expected time of departure and its next port or airport of call; and
 - (ii) any other required particulars; and
- (b) a passenger and crew manifest.

(4) The report and manifest shall be given as soon as possible before the ship or aircraft departs or, if a circumstance beyond the master’s or commander’s control prevents this, before the ship or aircraft departs.

(5) However, the report need not be given if the ship or aircraft is not carrying exported goods and the departure is because of an emergency.

(6) The passenger and crew manifest shall state the following for those who are to be on board -

- (a) the number of outward passengers;
- (b) the number of in-transfer passengers;
- (c) the following particulars for each passenger (whether, outward, in-transfer or otherwise) -
 - (i) their first and last names, sex, date of birth and nationality; and

(ii) any other required particulars; and

(d) the first and last names of each crew member and of anyone else who will be on board.”.

Insertion of sections 74A and 74B - electronic notices by Customs : evidentiary provisions

6. The principal Law is amended by inserting after section 74 the following sections -

“Electronic notices by Customs

74A. (1) This section applies for a document that may, under this Law, be given by Customs to a person for a purpose under this Law, including, for example, a notice of a required form or particulars.

(2) The document may be given to the person by giving it electronically to an electronic address if any of the following has, from that address, electronically communicated with Customs for any purpose of this Law -

- (a) the person;
- (b) someone else who had, or had apparently, been, authorised by the person to communicate with the Customs on the person’s behalf; or
- (c) the person’s electronic agent as defined under section 2 of the Electronic Transactions Law (2003 Revision).

2003 Revision

(3) If there has been more than one such electronic address for a person mentioned in paragraph (2), the document can only be given to the one that the person most recently used to communicate with Customs.

(4) To avoid doubt, this section extends, and does not limit or otherwise affect, the application of the Electronic Transactions Law (2003 Revision) to this Law.

Evidentiary provisions

74B.(1) In a proceeding relating to this Law, a certificate signed, or purporting to be signed, by the chief officer stating any or all of the following is evidence of that matter -

- (a) that a stated document is a copy of a document given under this Law;
- (b) that on a stated day the person stated in the document as its recipient was given the document;
- (c) that a stated electronic address in a stated

document was, when its recipient was given the document, an electronic address under section 74A for the giving of documents to the recipient;

- (d) that a stated document was given to its recipient at a stated time;
- (e) that a stated form of document, manner of giving a document or particulars required for a document or report was notified by Customs at a stated time and in a stated way; and
- (f) that a stated document is a copy of a post that appeared on the Customs website on a stated day or during a stated period.

2003 Revision

(2) For section 17 of the Electronic Transactions Law (2003 Revision), a certificate under subsection (1)(c) is evidence that a document was electronically given to the recipient at the stated time.”.

Passed by the Legislative Assembly the day of , 2016.

Speaker.

Clerk of the Legislative Assembly.