

AIR FACILITATION (DOMESTIC PASSENGERS AND CARGO) BILL

EXPLANATORY NOTE

THIS Bill amends the Customs Act 1966 and the Immigration Act 1987.

The Bill is a companion measure to the Air Facilitation Act 1993. That Act provides for checks under the Customs Act 1966 and the Immigration Act 1987 to be made on internationally ticketed passengers flying between two Customs airports in New Zealand on international flights. This Bill provides for checks under the Customs Act 1966 and the Immigration Act 1987 to be made on domestic passengers flying between two Customs airports in New Zealand on international flights. Such checks prevent passengers using international flights to evade customs and immigration restrictions by, for example, the passage from an international passenger to a domestic passenger of goods that cannot lawfully be brought into New Zealand, or the impersonation of a domestic passenger by an international passenger who has no legal entitlement to enter New Zealand.

The Bill also provides for Customs checks on domestic cargo carried between Customs airports in New Zealand on international flights. This is to prevent persons using the carriage of domestic cargo on an international flight as a device to enable the importation into New Zealand of goods that cannot lawfully be brought into this country.

Clause 1 relates to the Short Title and commencement. The Bill comes into force on 1 November 1994.

PART I CUSTOMS

Clause 3 inserts definitions of the terms “domestic cargo” and “domestic passenger” into section 2 of the Customs Act 1966. The essence of both definitions is that they relate to cargo and passengers carried between Customs airports in New Zealand on international flights.

Clause 4 amends section 16 of the Customs Act 1966 by repealing paragraph (f), and substituting new paragraphs (f) and (g). The new paragraphs extend the scope of goods subject to the control of the Customs to include goods owned by or in the possession of international and domestic passengers, and goods that are domestic cargo, while the goods are being carried within New Zealand on an international flight.

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Clause 5 amends section 45 of the Customs Act 1966 to provide that the pilot or owner of an aircraft on an international flight that arrives at a Customs airport while carrying any international or domestic passengers or any domestic cargo must provide a report to Customs.

Clause 6 amends section 212 of the Customs Act 1966 by replacing the existing subsection (1A) with 2 new subsections. The new subsections provide that a Customs officer may question an international or domestic passenger using air travel from one Customs airport to another within New Zealand about whether the passenger has or has had any dutiable, restricted, uncustomed, or forfeited goods in his or her possession at any time in the period from the time when the passenger enters the departure hall at the commencement of the journey until the time when the passenger leaves the arrival hall at the end of the journey. The questioning must also occur within that period. It is an offence to fail or refuse to answer the questions.

Clause 7 inserts a new section 212A in the Customs Act 1966. The new section provides that a Customs officer may question any person who is employed by an airline or by any other carrier of domestic passengers or domestic cargo or by the controlling authority of an examining place, or any person who is in an examination station or examining place, about any cargo in any examination station or examining place. It is an offence to fail or refuse to answer the questions.

Clause 8 inserts a new section 218B in the Customs Act 1966. The new section provides that any Customs officer may require an international or domestic passenger using air travel from one Customs airport to another within New Zealand to produce such evidence as may be prescribed of that passenger's identity and entitlement to the air travel. It is an offence to fail to comply.

PART II

IMMIGRATION

Clause 10 amends section 2 of the Immigration Act 1987 by inserting a definition of the term "domestic passenger".

Clause 11 inserts a new section 126B in the Immigration Act 1987. The new section requires a domestic passenger travelling by air between two Customs airports in New Zealand to produce on demand, to an immigration officer, that passenger's boarding pass or ticketing and, if carried by the passenger, the passenger's passport or certificate of identity, to enable the officer to establish the passenger's identity and entitlement to air travel for a domestic sector.

Hon. Maurice Williamson

AIR FACILITATION (DOMESTIC PASSENGERS AND CARGO)

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A BILL INTITULED

An Act to amend the Customs Act 1966 and the Immigration Act 1987

BE IT ENACTED by the Parliament of New Zealand as follows:

5 **1. Short Title and commencement**—(1) This Act may be cited as the Air Facilitation (Domestic Passengers and Cargo) Act 1994.

(2) This Act shall come into force on the 1st day of November 1994.

10 **PART I**
CUSTOMS

2. This Part to be read with Customs Act 1966—This Part of this Act shall be read together with and deemed part of

the Customs Act 1966* (hereafter in this Part referred to as the principal Act).

3. Interpretation—Section 2 of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

- “ ‘Domestic cargo’ means goods that, having been accepted at one Customs airport in New Zealand for carriage by air to another Customs airport in New Zealand on either—
 - “(a) An aircraft that—
 - “(i) Begins its journey outside New Zealand; and
 - “(ii) In the course of that journey, enters New Zealand and travels between at least two Customs airports in New Zealand; or
 - “(b) An aircraft that—
 - “(i) Begins its journey at a Customs airport in New Zealand; and
 - “(ii) In the course of that journey, travels to at least one other Customs airport in New Zealand before leaving New Zealand,—

are awaiting carriage at the Customs airport at which they were accepted, or are being carried on such an aircraft from one Customs airport to another Customs airport or, having been so carried on such an aircraft, are awaiting collection from an examination station or an examining place at a Customs airport in New Zealand:
- “ ‘Domestic passenger’ means a passenger, not being an internationally ticketed passenger, who has an entitlement to air travel for a domestic sector on either—
 - “(a) An aircraft that—
 - “(i) Begins its journey outside New Zealand; and
 - “(ii) In the course of that journey, enters New Zealand and travels between at least two Customs airports in New Zealand; or
 - “(b) An aircraft that—
 - “(i) Begins its journey at a Customs airport in New Zealand; and

*R.S. Vol. 2, p. 57

Amendments: 1979, No. 7; 1981, No. 20; 1982, No. 126; 1985, No. 131; 1986, No. 44; 1987, No. 63; 1987, No. 75; 1987, No. 89; 1987, No. 128; 1988, No. 17; 1988, No. 127; 1988, No. 182; 1989, No. 47; 1990, No. 89; 1990, No. 117; 1991, No. 73; 1991, No. 84; 1991, No. 130; 1992, No. 30

“(ii) In the course of that journey, travels to at least one other Customs airport in New Zealand before leaving New Zealand.”.

5 **4. Control of the Customs**—Section 16 of the principal Act is hereby amended by repealing paragraph (f) (as inserted by section 4 of the Air Facilitation Act 1993), and substituting the following paragraphs:

10 “(f) In the case of goods owned by or in the possession of a passenger (being an internationally ticketed passenger who is using air travel for a domestic sector or a domestic passenger who is using air travel for a domestic sector), from the time when, at the commencement of the domestic sector, the goods are—

15 “(i) Brought into the departure hall; or
 “(ii) Accepted for carriage by an airline—
 until the time when, at the end of the domestic sector, the goods are taken out of the arrival hall:

20 “(g) In the case of domestic cargo, from the time when the goods are accepted for carriage at one Customs airport in New Zealand until the time when the goods are collected from an examination station or an examining place at another Customs airport in New Zealand.”

25 **5. Inward report**—(1) Section 45 (1) of the principal Act is hereby amended by adding to paragraph (b) the following subparagraphs:

30 “(iii) While it is carrying any internationally ticketed passenger who is using air travel for a domestic sector; or

 “(iv) While it is carrying any domestic passenger who is using air travel for a domestic sector; or

 “(v) While it is carrying any domestic cargo.”

35 (2) Section 45 (1) of the principal Act is hereby consequentially amended by adding to subparagraph (ii) of paragraph (b) the expression “; or”.

40 **6. Questioning persons**—Section 212 of the principal Act is hereby amended by repealing subsection (1A) (as inserted by section 5 of the Air Facilitation Act 1993), and substituting the following subsections:

4 *Air Facilitation (Domestic Passengers and Cargo)*

“(1A) Any officer may question—

“(a) Any internationally ticketed passenger using air travel for a domestic sector; and

“(b) Any domestic passenger using air travel for a domestic sector—

as to whether or not the passenger has or has had in the passenger’s possession, at any time in the period beginning with the time at which the passenger enters the departure hall at the commencement of the domestic sector and ending with the time at which the passenger leaves the arrival hall at the end of the domestic sector, any dutiable, restricted, uncustomed, or forfeited goods. 10

“(1B) The power to question any passenger conferred by subsection (1A) of this section may be exercised only during the period beginning with the time at which the passenger enters the departure hall at the commencement of the domestic sector and ending with the time at which the passenger leaves the arrival hall at the end of the domestic sector.” 15

7. Questioning employees of airlines, etc.—The principal Act is hereby amended by inserting, after section 212, the following section: 20

“212A. (1) Any officer may question any person who—

“(a) Is employed by any airline or by any other carrier of domestic passengers or domestic cargo; or

“(b) Is employed by the controlling authority of any examining place; or 25

“(c) Is in any examination station or any examining place—about any domestic cargo in any examination station or any examining place.

“(2) Every person commits an offence and is liable to a fine not exceeding \$400 who, on being so questioned,— 30

“(a) Fails or refuses to answer any question so put to him or her; or

“(b) Fails or refuses to answer any such question in writing if so required by the officer; or 35

“(c) Answers any such question incorrectly.

“(3) It is a defence to a charge under this section to prove that the defendant did not, as and when the defendant was required by the officer to answer the questions, have the information required to answer the questions in his or her knowledge, possession, or control.” 40

8. Evidence of identity and entitlement to travel—The principal Act is hereby amended by inserting, after section

218A (as inserted by section 15 of the Customs Acts Amendment Act 1985), the following section:

“218B. (1) Any officer of Customs may require a passenger who is—

5 “(a) An internationally ticketed passenger using air travel for a domestic sector; or

“(b) A domestic passenger using air travel for a domestic sector—

to produce for inspection—

10 “(c) Such evidence as may be prescribed of that passenger’s identity; and

“(d) Such evidence as may be prescribed of that passenger’s entitlement to air travel for a domestic sector.

“(2) Every person commits an offence who, being—

15 “(a) An internationally ticketed passenger using air travel for a domestic sector; or

“(b) A domestic passenger using air travel for a domestic sector,—

20 fails, without reasonable excuse, to comply with a requirement of an officer under subsection (1) of this section.

“(3) Any document produced by a passenger to a Customs officer under subsection (1) of this section shall be either—

“ (a) Inspected immediately and returned to the passenger as soon as the inspection has concluded; or

25 “ (b) Retained by the Customs officer for as long as is necessary for the officer to ascertain whether or not the Collector wishes to exercise the Collector’s power under section 220 (1) of this Act to impound or retain the document.”

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PART II

IMMIGRATION

9. This Part to be read with Immigration Act 1987—

35 This Part of this Act shall be read together with and deemed part of the Immigration Act 1987* (hereafter in this Part referred to as the principal Act).

10. Interpretation—Section 2 of the principal Act is hereby amended by inserting, in its appropriate alphabetical order, the following definition:

40 “ ‘Domestic passenger’ means a passenger, not being an internationally ticketed passenger, who has an

*1987, No. 74

Amendments: 1988, No. 191; 1989, No. 87; 1990, No. 90; 1991, No. 113; 1991, No. 134; 1992, No. 88; 1993, No. 100

entitlement to air travel for a domestic sector on either—

“(a) An aircraft that—

“(i) Begins its journey outside New Zealand; and
 “(ii) In the course of that journey, enters New Zealand and travels between at least two Customs airports in New Zealand; or

“(b) An aircraft that—

“(i) Begins its journey at a Customs airport in New Zealand; and
 “(ii) In the course of that journey, travels to at least one other Customs airport in New Zealand before leaving New Zealand.”

11. Responsibilities of domestic passengers travelling by air within New Zealand—The principal Act is hereby amended by inserting, after section 126A (as inserted by section 8 of the Air Facilitation Act 1993), the following section:

“126B. (1) Where any domestic passenger is using air travel for a domestic sector, this section shall apply to that passenger from the time at which that passenger enters the examination station at the commencement of the domestic sector until the time at which that passenger leaves the examination station at the end of the domestic sector.

“(2) Every person to whom this section applies shall produce for inspection on demand by an immigration officer—

“(a) That person’s boarding pass or ticketing; and

“(b) If carried by that person, that person’s passport or certificate of identity—

to enable the officer to establish that person’s identity and entitlement to air travel for a domestic sector.

“(3) Every boarding pass or ticketing or passport or certificate of identity produced by a person to an immigration officer under **subsection (2)** of this section shall be either—

“(a) Inspected immediately and returned to the person as soon as the inspection has concluded; or

“(b) Retained by the immigration officer for as long as is necessary for that officer to determine whether or not he or she wishes to exercise any power under this Act in relation to the person or the boarding pass or ticketing or passport or certificate of identity.

“(4) Nothing in this section shall limit the exercise by an immigration officer of any power contained in any other provision of this Act.”

12. Repeals—Section 4 and section 5 of the Air Facilitation Act 1993 are hereby consequentially repealed.