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 1994, No. 100

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

[20 October 1994]

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

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.

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—(1) 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

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

(2) Section 2 of the principal Act is hereby further amended by omitting from the definition of the term “internationally ticketed passenger” (as inserted by section 3 of the Air Facilitation Act 1993) the word “ticketing”, and substituting the word “tickets”.

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:

“(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—

“(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:

“(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.”

5. Aircraft to be brought to examination station—

(1) Section 44 (1) of the principal Act is hereby amended by inserting, after paragraph (b), the following paragraphs:

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

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

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

(2) Section 44 (1) of the principal Act is hereby consequentially amended by adding to paragraph (b) the expression “; or”.

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

“(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.”

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

7. 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:

“(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.

“(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.”

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

“212A. (1) Any officer may question—

“(a) Any person who, as an employee of any airline, manages or carries out the receipt, handling, custody, or despatch of domestic cargo by that airline; or

“(b) Any person who, as an employee of the controlling authority of any examining place, manages or carries out the receipt, handling, custody, examination, or despatch of domestic cargo by that controlling authority; or

“(c) Any person who is in any examination station or examining place,—

about any domestic cargo in any examination station or examining place.

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

“(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

“(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.”

9. 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) This section applies to any person who is—

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

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

“(2) Every person to whom this section applies shall, on demand made by an officer of Customs,—

“(a) Produce for inspection such prescribed document, or such prescribed documents, as the officer may specify; or

“(b) If the person is unable to produce the prescribed document specified or the prescribed documents specified, complete a declaration in the prescribed form.

“(3) A demand under subsection (2) of this section may be made of a person only for the purpose of enabling the officer of Customs to establish that person’s identity or that person’s entitlement to air travel for a domestic sector or both.

“(4) Every person commits an offence against this Act who fails, without reasonable excuse, to comply with a demand made under subsection (2) of this section by an officer of Customs.

“(5) Any document produced by a person to an officer of Customs 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 officer of Customs 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.”

PART II

IMMIGRATION

10. This Part to be read with Immigration Act 1987— 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).

11. Interpretation—(1) Section 2 of the principal Act is hereby amended by inserting, in its appropriate alphabetical order, the following definition:

“‘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

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

(2) Section 2 of the principal Act is hereby further amended by omitting from the definition of the term “internationally ticketed passenger” (as inserted by section 7 (4) of the Air Facilitation Act 1993) the word “ticketing”, and substituting the word “tickets”.

12. Responsibilities of internationally ticketed passengers travelling by air within New Zealand— Section 126A of the principal Act (as inserted by section 8 of the Air Facilitation Act 1993) is hereby amended by omitting from subsection (2), and also from subsection (4), the word “ticketing”, and substituting in each case the word “tickets”.

13. 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, on demand made by an immigration officer,—

“(a) Produce for inspection such of the following documents as the officer may specify:

“(i) That person’s boarding pass:

“(ii) That person’s tickets:

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

“(iv) Such other document or documents as may from time to time be prescribed; or

“(b) If the person is unable to produce the specified document or the specified documents, complete a form approved and issued for the purpose by the Minister under section 132 of this Act.

“(3) A demand under subsection (2) of this section may be made of a person only for the purpose of enabling the immigration officer to establish that person’s identity or that person’s entitlement to air travel for a domestic sector or both.

“(4) Every boarding pass or passport or certificate of identity or other documents or tickets 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 passport or certificate of identity or other documents or tickets.

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

14. Repeals—Sections 4 and 5 of the Air Facilitation Act 1993 are hereby consequentially repealed.