



Territory of Christmas Island

Customs Ordinance 1993

made under the

Christmas Island Act 1958

Compilation No. 4

Compilation date:	1 July 2015
Includes amendments up to:	Ordinance No. 3, 2015
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About this compilation

This compilation

This is a compilation of the *Customs Ordinance 1993* that shows the text of the law as amended and in force on 1 July 2015 (the *compilation date*).

This compilation was prepared on 28 July 2015.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on ComLaw (www.comlaw.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on ComLaw for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on ComLaw for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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1 Short title

This Ordinance may be cited as the *Customs Ordinance 1993*.

Note: This Ordinance commences on gazettal: see *Christmas Island Act 1958*, s 9 (2).

2 Repeal

The Customs Ordinance of the Colony of Singapore in its application to the Territory is repealed.

3 Definitions

In this Ordinance, unless the contrary intention appears:

applied customs law means a law of the Commonwealth in its application to the Territory in accordance with this Ordinance.

Comptroller means the person appointed under section 7.

Customs Minister means the Minister who administers Part XII of the *Customs Act 1901*.

customs officer means:

- (a) the Comptroller; and
- (b) a person appointed under section 8.

4 Application of Commonwealth Customs legislation

- (1) Subject to this Ordinance, the following laws of the Commonwealth apply in the Territory as if they were laws of the Territory, except to the extent that they deal with duties of customs:
 - (a) the *Customs Act 1901*, as in force from time to time;
 - (b) the *Customs Regulation 2015*, as in force from time to time;
 - (c) the *Customs (International Obligations) Regulation 2015*, as in force from time to time;
 - (d) other regulations as in force from time to time under the *Customs Act 1901*;
 - (e) subject to subsection (4), an instrument as in force from time to time under subsection 4A(1) or (1A) of the *Customs Act 1901*.
- (2) For the purposes of this Ordinance:
 - (a) the *Customs Act 1901* in its application to the Territory:
 - (i) is modified in accordance with Schedule 1; and
 - (ii) may be cited as the *Customs Act 1901 (C.I.)*; and
 - (b) the *Customs Regulation 2015* in its application to the Territory:
 - (i) is modified in accordance with Schedule 2; and
 - (ii) may be cited as the *Customs Regulation 2015 (C.I.)*; and

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- (c) the *Customs (International Obligations) Regulation 2015* in its application to the Territory:
 - (i) is modified in accordance with Schedule 3; and
 - (ii) may be cited as the *Customs (International Obligations) Regulation 2015 (C.I.)*.
- (3) For the purposes of the applied customs laws, goods have the same classification as they would have if they were classified under a tariff classification under the *Customs Tariff Act 1995*.
- (4) If:
 - (a) there is in force under subsection 4A(1) or (1A) of the *Customs Act 1901 (C.I.)* an instrument approving a form or statement in relation to a matter; and
 - (b) there is in force an instrument, of the kind referred to in paragraph (1)(e) of this section, in relation to the matter;then the instrument of the kind referred to in paragraph (1)(e) of this section does not apply in the Territory.

5 Interpretation of the Act and instruments under the Act

In the *Customs Act 1901 (C.I.)*, in regulations in force under that Act and in an instrument under subsection 4A(1) or (1A) of that Act:

- (a) a reference to the Minister is a reference to the Customs Minister; and
- (aa) a reference to the Department is a reference to the Department administered by the Customs Minister; and
- (b) a reference to Australia or the Commonwealth, if used in a geographical sense, is a reference to the Territory.

6 Indian Ocean Territories Customs Service

- (1) The Indian Ocean Territories Customs Service is established in relation to the Territory.
- (2) For the purposes of the Territory, the Indian Ocean Territories Customs Service comprises the Comptroller and customs officers.

7 Comptroller of the Indian Ocean Territories Customs Service

The Customs Minister may appoint in writing a person to be the Comptroller of the Indian Ocean Territories Customs Service.

8 Customs officers

The Comptroller may appoint in writing a person to be a customs officer.

8A Delegation

The Comptroller may, by writing, delegate any of his or her functions or powers under this Ordinance, or an applied customs law, to a person appointed under section 8.

9 Regulations

The Minister may make regulations prescribing matters:

- (a) required or permitted by this Ordinance to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance.

Schedule 1—Modifications of the Customs Act 1901

Note: See subparagraph 4(2)(a)(i).

1 After section 2

Insert:

3 Application of this Act

For the purposes of this Act:

- (a) the importation of goods into the Territory from the Territory of Cocos (Keeling) Islands is taken not to be an importation to which this Act applies; and
- (b) the exportation of goods from the Territory to the Territory of Cocos (Keeling) Islands is taken not to be an exportation to which this Act applies.

2 Subsection 4(1) (definition of *Comptroller-General of Customs*)

Repeal the definition, substitute:

Comptroller-General of Customs means the Comptroller of the Indian Ocean Territories Customs Service.

3 Subsection 4(1) (definition of *Division 1B Judge*)

Repeal the definition, substitute:

Division 1B Judge means a Judge of the Supreme Court of Western Australia.

4 Subsection 4(1) (definition of *Division 1B Magistrate*)

Repeal the definition, substitute:

Division 1B Magistrate means a Magistrate of Western Australia.

5 Subsection 4(1) (definition of *officer of Customs*)

Repeal the definition, substitute:

officer of Customs means a customs officer within the meaning of the *Customs Ordinance 1993*.

6 Subsection 8(1)

Repeal the subsection, substitute:

- (1) In this Act, a reference to the Collector, or to a Collector, is a reference to a customs officer within the meaning of the *Customs Ordinance 1993*.

7 Subsection 64(3)

Omit “Subject to subsection (4), the”, substitute “The”.

8 Subsection 64(4)

Repeal the subsection.

9 Subsection 64AA(4)

Omit “Subject to subsection (5), a”, substitute “A”.

10 Subsection 64AA(5)

Repeal the subsection.

11 Subsection 64AAB(3)

Repeal the subsection, substitute:

- (3) The report may be made by document or electronically.
- (3A) A documentary report must:
 - (a) be in writing; and
 - (b) be in an approved form; and
 - (c) be communicated to the Department by sending or giving it to an officer doing duty in relation to the reporting of ships or aircraft at the port or airport of arrival; and
 - (d) contain such information as is required by the form; and
 - (e) be signed in a manner specified in the form.
- (3B) An electronic report must communicate such information as is set out in an approved statement.

12 Subsection 64AAB(5)

Omit “approve different statements for reports”, substitute “approve different forms for documentary reports, and different statements for electronic reports,”.

13 Subsection 64AAC(3)

Repeal the subsection, substitute:

- (3) The report may be made by document or electronically.
- (3A) A documentary report must:
 - (a) be in writing; and
 - (b) be in an approved form; and
 - (c) be communicated to the Department by sending or giving it to an officer doing duty in relation to the reporting of ships or aircraft at the port or airport of arrival; and
 - (d) contain such information as is required by the form; and
 - (e) be signed in a manner specified in the form.
- (3B) An electronic report must communicate such information as is set out in an approved statement.

14 Subsection 64AAC(5)

Omit “approve different statements for electronic reports”, substitute “approve different forms for documentary reports, and different statements for electronic reports,”.

15 Subsection 64AB(4)

Repeal the subsection, substitute:

(4) A cargo report may be made by document or electronically.

(4A) A documentary report must:

- (a) be in writing; and
- (b) be in an approved form; and
- (c) be communicated to the Department by sending or giving it to an officer doing duty in relation to the reporting of ships or aircraft at the port or airport of arrival; and
- (d) contain such information as is required by the form; and
- (e) be signed in a manner specified in the form.

16 Subsection 64AB(5)

Omit “approved statement to be communicated electronically”, substitute “approved form or approved statement”.

17 Paragraphs 64AB(5)(a), (aa) and (b)

Omit “in the statement”.

18 Subsection 64AB(6)

Omit “approve different statements for the cargo reports”, substitute “approve different forms for documentary reports, and different statements for electronic reports,”.

19 Subsections 64ABAA(1) to (4)

Omit “electronically”.

20 Subparagraph 64ABAA(5)(c)(i)

Repeal the subparagraph, substitute:

- (i) be made by document or electronically; and

21 After subsection 64ABAA(5)

Insert:

(5A) A documentary report must:

- (a) be in writing; and
- (b) be in an approved form; and
- (c) be communicated to the Department by sending or giving it to an officer doing duty in relation to outturn reports; and
- (d) contain such information as is required by the form; and

(e) be signed in a manner specified in the form.

(5B) An electronic report must communicate such information as is set out in an approved statement.

22 Subsection 64ABAA(6)

Omit “approve different statements for the outturn reports to be made”, substitute “approve different forms for documentary reports, and different statements for electronic reports, to be made under this section”.

23 Section 64ADAA

Repeal the section, substitute:

64ADAA Requirements for communicating to Department electronically

A communication that is permitted by this Subdivision to be made to the Department electronically must:

- (a) contain the signature of the person who makes it; and
- (b) if information technology requirements have been determined under section 126DA—meet those requirements.

24 Subsection 71AAAF(1)

Omit “containing the information that is set out in an approved statement”.

25 Subsection 71AAAF(2)

Repeal the subsection, substitute:

- (2) A self-assessed clearance declaration may be made by document or electronically.
- (2A) A documentary declaration must:
 - (a) be in writing; and
 - (b) be in an approved form; and
 - (c) be communicated to the Department by sending or giving it to an officer doing duty in relation to self-assessed clearance declarations; and
 - (d) contain such information as is required by the form; and
 - (e) be signed in a manner specified in the form.
- (2B) An electronic declaration must communicate such information as is set out in an approved statement.

26 Subsection 71AAAG(1)

Omit “advice electronically”, substitute “advice, by document or electronically”.

27 Section 71AAAH

Omit “electronically”, substitute “, by document or electronically”.

28 Subsection 71AAAI(1)

Omit “electronically”, substitute “, by document or electronically”.

29 Subsection 71AAAI(2)

Omit “electronically”, substitute “, by document or electronically”.

30 Paragraphs 71AAAM(2)(a) and (b) and (4)(a) and (b)

Omit “electronically”, substitute “, by document or electronically,”.

31 Subsection 71AAAN(2)

Omit “electronically,”, substitute “, by document or electronically,”.

32 Paragraph 71AAAO(3)(a)

Omit “electronically,”, substitute “, by document or electronically,”.

33 Paragraph 71AAAO(3)(b)

After “set out in an”, insert “approved form or”.

34 Subsection 71AAAP(1)

Omit “electronically”, substitute “, by document or electronically,”.

35 Subsection 71AAAP(5)

Omit “A withdrawal”, substitute “An electronic withdrawal”.

36 Subsection 71AAAT(1)

Omit “approve different statements for electronic communications”, substitute “approve different forms for documentary communications, and different statements for electronic communications,”.

37 Subsection 71E(2B)

Repeal the subsection, substitute:

(2B) A movement application under subsection (2A) may be made by document or electronically.

(2BA) A documentary movement application under subsection (2A) must be communicated to the Department by giving it to an officer doing duty in relation to import entries or to the movement of goods subject to customs control

38 Section 71M

Repeal the section, substitute:

71M Requirements for communicating to Department electronically

A communication that is permitted by this Division to be made to the Department electronically must:

- (a) contain the signature of the person who makes it; and
- (b) if information technology requirements have been determined under section 126DA—meet those requirements.

39 Subsection 114F(1A)

Omit “electronically,” substitute “, by document or electronically,”.

40 Subsection 114F(1A)

After “required by an”, insert “approved form or”.

41 Subsection 114F(1B)

Omit “electronically”, substitute “, by document or electronically”.

42 Paragraph 114F(1B)(b)

After “required by an”, insert “approved form or”.

43 Subsection 117AA(2)

Omit “electronically”, substitute “, by document or electronically,”.

44 Subsection 117AA(2)

After “required by an”, insert “approved form or”.

45 Subsection 117AA(4)

Omit “electronically”, substitute “, by document or electronically,”.

46 Subsection 117A(1)

Omit “electronically”, substitute “, by document or electronically,”.

47 Subsection 117A(2)

After “set out in an”, insert “approved form or”.

48 Subsection 119(1)

Omit “electronically”, substitute “, by document or electronically,”.

49 Subsection 119(2)

After “set out in an”, insert “approved form or”.

50 Section 119E

Repeal the section, substitute:

119E Requirements for communicating to Department electronically

A communication that is permitted by this Division to be made to the Department electronically must:

- (a) contain the signature of the person who makes it; and
- (b) if information technology requirements have been determined under section 126DA—meet those requirements.

51 Section 126D

Repeal the section.

52 Subsection 126DA(1)

Omit “After consulting with persons likely to be affected, the Comptroller-General of Customs must determine, and cause to be published in the *Gazette*”, substitute “After consulting with persons likely to be affected, the Comptroller-General of Customs may determine”.

53 Section 126DB

Repeal the section, substitute:

126DB Authentication of certain electronic communications

An electronic communication that is made to the Department and is permitted by this Act is taken to be made by a particular person, even though the person did not authorise the communication, if:

- (a) if information technology requirements have not been determined under section 126DA—the person did not notify the Department of a breach of security relating to electronic communications before the communication; or
- (b) if the Comptroller-General of Customs has determined under section 126DA the information technology requirements that have to be met to satisfy a requirement that the person’s signature be given to the Department in connection with information in the communication:
 - (i) the communication meets those requirements; and
 - (ii) the person did not notify the Department of a breach of security relating to those requirements before the communication;

unless the person provides evidence to the contrary.

54 Paragraph 126DC(3)(b)

Repeal the paragraph, substitute:

- (b) if the Comptroller-General of Customs has determined under section 126DA the information technology requirements that have to be met to satisfy a requirement that the person’s signature be given to the Department in connection with information in the communication—met those requirements.

55 Sections 126E to 126G

Repeal the sections.

56 Divisions 3 to 5 of Part XI

Repeal the Divisions.

57 Section 270

Repeal the section.

Schedule 2—Modifications of the Customs Regulation 2015

Note: See subparagraph 4(2)(b)(i).

1 Section 101

Repeal the section.

2 Part 13

Repeal the Part.

Schedule 3—Modifications of the Customs (International Obligations) Regulation 2015

Note: See subparagraph 4(2)(c)(i).

1 Part 4

Repeal the Part.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Endnotes about misdescribed amendments and other matters are included in a compilation only as necessary.

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

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A = Act	o = order(s)
ad = added or inserted	Ord = Ordinance
am = amended	orig = original
amdt = amendment	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
c = clause(s)	pres = present
C[x] = Compilation No. x	prev = previous
Ch = Chapter(s)	(prev...) = previously
def = definition(s)	Pt = Part(s)
Dict = Dictionary	r = regulation(s)/rule(s)
disallowed = disallowed by Parliament	Reg = Regulation/Regulations
Div = Division(s)	reloc = relocated
exp = expires/expired or ceases/ceased to have effect	renum = renumbered
F = Federal Register of Legislative Instruments	rep = repealed
gaz = gazette	rs = repealed and substituted
LI = Legislative Instrument	s = section(s)/subsection(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sch = Schedule(s)
(md) = misdescribed amendment can be given effect	Sdiv = Subdivision(s)
(md not incorp) = misdescribed amendment cannot be given effect	SLI = Select Legislative Instrument
mod = modified/modification	SR = Statutory Rules
No. = Number(s)	Sub-Ch = Sub-Chapter(s)
	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	FRLI registration or gazettal	Commencement	Application, saving and transitional provisions
Customs Ordinance 1993 (No. 7 of 1993)	9 Sept 1993	9 Sept 1993	
Customs (Amendment) Ordinance 1996 (No. 1 of 1996)	17 Apr 1996	17 Apr 1996	—
Customs Amendment Ordinance 2001 (No. 2 of 2001)	28 Sept 2001	28 Sept 2001	—
Customs Amendment Ordinance 2005 (No. 1)	8 July 2005 (F2005L01835)	19 July 2005	—
Christmas Island Customs Amendment (Australian Border Force) Ordinance 2015 (No 3, 2015)	30 June 2015 (F2015L01045)	1 July 2015	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
s 3	rs No. 2, 2001 am No 3, 2015
s 4	rs No 2, 2001 am No 1, 2005; No 3, 2015
s 5	am No 2, 2001; No 3, 2015
s. 7	am. No. 2, 2001
s 8A.....	ad No 3, 2015
Schedule 1	
Schedule 1.....	am. No. 1, 1996; No. 2, 2001 rs No 3, 2015
Schedule 2	
Schedule 2.....	am. No. 2, 2001 rs No 3, 2015
Schedule 3	
Schedule 3.....	ad. No. 2, 2001 rs No 3, 2015
