



# **Christmas Island Customs Amendment (Australian Border Force) Ordinance 2015**

## **Ordinance No. 3, 2015**

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I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd),  
Governor-General of the Commonwealth of Australia, acting with the  
advice of the Federal Executive Council, make the following Ordinance.

Dated 25 June 2015

Peter Cosgrove  
Governor-General

By His Excellency's Command

Jamie Briggs  
Assistant Minister for Infrastructure and Regional Development

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## 1 Name

This is the *Christmas Island Customs Amendment (Australian Border Force) Ordinance 2015*.

## 2 Commencement

- (1) Each provision of this Ordinance specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information  |   |              |
|---|---|--------------|
| Column 1  | Column 2  | Column 3     |
| Provisions  | Commencement  | Date/Details |
| 1. Sections 1 to 4 and anything in this Ordinance not elsewhere covered by this table | The day after this Ordinance is registered.   |              |
| 2. Schedule 1   | Immediately after the commencement of the <i>Australian Border Force Act 2015</i> . | 1 July 2015  |

Note: This table relates only to the provisions of this Ordinance as originally made. It will not be amended to deal with any later amendments of this Ordinance.

- (2) Any information in column 3 of the table is not part of this Ordinance. Information may be inserted in this column, or information in it may be edited, in any published version of this Ordinance.

## 3 Authority

This Ordinance is made under the *Christmas Island Act 1958*.

## 4 Schedules

Each instrument that is specified in a Schedule to this Ordinance is amended or repealed as set out in the applicable items in the

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## Schedule 1—Amendments

### *Customs Ordinance 1993*

#### **1 Section 3 (definition of *Customs Minister*)**

After “administers”, insert “Part XII of”.

#### **2 Paragraphs 4(1)(a) to (d)**

Repeal the paragraphs, substitute:

- (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*.

#### **3 Subsection 4(2)**

Repeal the subsection, substitute:

- (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
  - (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.).

#### **4 At the end of section 4**

Add:

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(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 Section 5 (heading)**

Repeal the heading, substitute:

## **5 Interpretation of the Act and instruments under the Act**

## **6 Section 5**

Omit “and regulations in force under that Act”, substitute “, in regulations in force under that Act and in an instrument under subsection 4A(1) or (1A) of that Act”.

## **7 After paragraph 5(a)**

Insert:

- (aa) a reference to the Department is a reference to the Department administered by the Customs Minister; and

## **8 After section 8**

Insert:

## **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 Schedules 1 to 3**

Repeal the Schedules, substitute:

# **Schedule 1—Modifications of the Customs Act 1901**

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



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**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:

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(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:

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- (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:

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**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.

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