

Reprint  
as at 1 October 2018



## Customs and Excise (Border Processing—Trade Single Window and Duties) Amendment Act 2014

Public Act 2014 No 10  
Date of assent 24 March 2014  
Commencement see section 2

Customs and Excise (Border Processing—Trade Single Window and Duties) Amendment Act 2014: repealed, on 1 October 2018, pursuant to section 442 of the Customs and Excise Act 2018 (2018 No 4).

### Contents

		Page
1	Title	4
2	Commencement	4
	<i>Principal Act</i>	
3	Principal Act	4
	<i>Trade Single Window amendments effective 3 months after assent</i>	
4	Section 2 amended (Interpretation)	4
5	New section 3A inserted (Transitional and savings provisions relating to amendments to this Act)	5
	3A Transitional and savings provisions relating to amendments to this Act	5
6	Section 21 amended (Advice of arrival, etc)	5
7	New section 21A inserted (Inward cargo report)	5
	21A Inward cargo report	6

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#### Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This Act is administered by the New Zealand Customs Service.**

8	Section 34 amended (Certificate of clearance)	6
9	New section 34AA inserted (Advance notice of departure may be provided by, or by agent of, owner or operator of craft)	6
	34AA Advance notice of departure may be provided by, or by agent of, owner or operator of craft	7
10	New section 37A inserted (Outward cargo report)	7
	37A Outward cargo report	7
11	New section 48A and cross-heading inserted	8
	<i>Transhipments: international or domestic</i>	
	48A Transhipment requests	8
	<i>Duties amendments effective 3 months after assent</i>	
12	Section 79A amended (Power to alter rates of excise duty and excise-equivalent duty on motor spirits by Order in Council)	9
13	Section 81 amended (Power of Governor-General in Council to suspend, remit, refund, or create exemptions from excise duties and excise-equivalent duties on goods supplied to certain organisations and their members)	9
14	Section 109 replaced (Reimportation of goods exported)	10
	109 Reimportation of goods exported	10
15	Section 118 amended (Regulations may prescribe minimum duty collectable or refundable and minimum drawback allowable)	10
	<i>Trade Single Window amendments effective 3 months after assent</i>	
16	Part 11 replaced	11
	<b>Part 11</b>	
	<b>Joint Border Management System (JBMS)</b>	
	131A Joint Border Management System (JBMS) defined	11
	131 Access generally restricted to registered users	12
	132 Application to be registered JBMS user	12
	132A Chief executive must determine application	12
	132B Border-related offence, dishonesty offence, and drugs offence defined	13
	133 Assignment, use, and security of unique user identifier	14
	134 Use of unique user identifier presumed secure	15
	134A Conditions on registration of registered users	15
	134B Border information supplied using JBMS must be supplied in approved form and manner	16
	135 Cancellation or suspension of registration	16
	136 Customs must keep records of transmissions	17
17	Section 182 amended (Unauthorised access to or improper use of Customs computerised entry processing system)	17
18	Section 183 amended (Interference with Customs computerised entry processing system)	17

19	Section 184 amended (Offences in relation to security of, or unauthorised use of, unique user identifiers)	18
20	Section 191 amended (Offences in relation to arrival of craft)	18
21	New section 192A inserted (Offences in relation to inward cargo report)	18
	192A Offences in relation to inward cargo report	18
22	Section 193 amended (Offences in relation to departure of craft)	19
23	Section 194 amended (Offences in relation to outward report)	19
24	New sections 194B and 194C inserted	19
	194B Offences in relation to outward cargo report	19
	194C Offences in relation to transshipment requests	20
25	Section 195 amended (Defences)	20
26	New section 204A inserted (Offence relating to failure to update information supplied in advance)	20
	204A Offence relating to failure to update information supplied in advance	20
27	Section 282D amended (Definitions)	21
28	Section 282E amended (Purpose of sections 282F to 282H)	22
29	Section 282I amended (Expiry of sections 282E to 282H and agreements made under section 282H)	22
30	New section 282JAA inserted (Application of sections 282J to 282L)	22
	282JAA Application of sections 282J to 282L	22
31	Section 284 amended (Giving of notice)	22
32	Section 285 amended (Additional provision relating to notices under this Act)	23
33	Section 286 amended (Regulations)	23
34	Section 286B amended (Regulations made under section 286A to be confirmed)	24
35	Section 288 amended (Chief executive may make rules for certain purposes)	24
36	New section 306A inserted (Transitional and savings provisions relating to amendments to this Act)	25
	306A Transitional and savings provisions relating to amendments to this Act	25
37	New Schedule 1AA inserted	25
38	Consequential amendments to other Acts	26
	<i>Trade Single Window amendment effective on or before 1 July 2016</i>	
39	New section 134C inserted (Duty to use JBMS to supply border information to Customs)	26
	134C Duty to use JBMS to supply border information to Customs	26

**Schedule**  
**New Schedule 1AA of Customs and Excise Act 1996**

27

**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Customs and Excise (Border Processing—Trade Single Window and Duties) Amendment Act 2014.

**2 Commencement**

- (1) Section 39 (which inserts section 134C of the Customs and Excise Act 1996, which imposes a duty to use the JBMS (Joint Border Management System) to supply border information) comes into force on 1 July 2016 or an earlier date appointed by the Governor-General by Order in Council.
- (2) Before the date appointed for section 39 by an order, the order may be amended, revoked, or revoked and replaced.
- (3) The rest of this Act comes into force on the day immediately after the expiry of the period of 3 months that starts on the date on which this Act receives the Royal assent.

*Principal Act*

**3 Principal Act**

This Act amends the Customs and Excise Act 1996 (the **principal Act**).

*Trade Single Window amendments effective 3 months after assent*

**4 Section 2 amended (Interpretation)**

- (1) In section 2(1), insert in their appropriate alphabetical order:

**cargo aggregator** means a person who, for reward, aggregates cargo (being cargo to be carried for different people) for carriage together on a craft—

- (a) in bulk cargo containers, or otherwise; and
- (b) under a shared space, or other negotiated volume of cargo, arrangement with the craft's owner or operator

**computer system** means the whole, or any part, of all or any of the 1 or more items described in the following paragraphs (each of which items includes all related input, output, processing, storage, software, or communication facilities, and stored data):

- (a) a computer:
- (b) 2 or more interconnected (within the meaning of subsection (4)) computers:

- (c) any communication links between computers or to remote terminals or another device;
- (d) 2 or more interconnected (within the meaning of subsection (4)) computers combined with any communication links between computers or to remote terminals or any other device

**Joint Border Management System** or **JBMS** has the meaning given in section 131A

- (2) After section 2(3), insert:
- (4) For the purposes of the definition of computer system, a computer is interconnected with another computer if it can be lawfully used to provide access to that other computer—
  - (a) with or without access information; and
  - (b) whether or not either or both computers are currently turned on; and
  - (c) whether or not access is currently occurring.

**5 New section 3A inserted (Transitional and savings provisions relating to amendments to this Act)**

After section 3, insert:

**3A Transitional and savings provisions relating to amendments to this Act**

Schedule 1AA contains transitional and savings provisions—

- (a) relating to amendments made to this Act on the day immediately after the expiry of the period of 3 months that starts on the date on which the Customs and Excise (Border Processing—Trade Single Window and Duties) Amendment Act 2014 receives the Royal assent; and
- (b) that affect other provisions of this Act (*see* section 306A).

**6 Section 21 amended (Advice of arrival, etc)**

- (1) Repeal section 21(1)(a)(v) and (vi).
- (2) Replace section 21(2) with:
- (2) The information referred to in subsection (1)(a)—
  - (a) may be provided, on behalf of the person in charge of the craft, by—
    - (i) the owner or operator of the craft referred to in subsection (1); or
    - (ii) an agent of the owner or operator; and
  - (b) must be accompanied by such supporting documents (being documents each of which is genuine, not erroneous in a material particular, and not misleading) as the chief executive may require.

**7 New section 21A inserted (Inward cargo report)**

After section 21, insert:

**21A Inward cargo report**

- (1) This section applies to cargo on a craft if the craft is—
  - (a) en route to, or has arrived in, New Zealand, from a point outside New Zealand; or
  - (b) carrying goods subject to the control of the Customs brought in that craft or any other craft from a point outside New Zealand.
- (2) Every person responsible for the carriage of the cargo on the craft must give to the Customs, before the prescribed deadline, a report on the cargo, unless a particular person of that kind is exempted from doing so because—
  - (a) that person has been advised by the chief executive that 1 or more other persons of that kind have already done so; or
  - (b) under this paragraph, and for another reason, the chief executive approves that person's being exempted from doing so.
- (3) A person is, for this section's purposes, responsible for the carriage of cargo on a craft only if the person (whether or not the person owns, or has any proprietary interest of any kind in, all or any part of the cargo) is—
  - (a) a person who is, or who is the agent of, the owner or operator of the craft; or
  - (b) a cargo aggregator who, in the course of that cargo aggregator's business, has (in or outside New Zealand) arranged for the carriage of the cargo on the craft under a shared space, or other negotiated volume of cargo, arrangement with the craft's owner or operator.
- (4) The report must contain such information relating to the cargo (being information that is genuine, not erroneous in a material particular, and not misleading) as may be prescribed, and must be given in the prescribed form and manner.
- (5) The information referred to in subsection (4) must be accompanied by such supporting documents (being documents each of which is genuine, not erroneous, and not misleading) as the chief executive may require.
- (6) Information supplied under this section is subject to, but this section does not limit, section 204A (offence relating to failing to update information supplied in advance).

**8 Section 34 amended (Certificate of clearance)**

In section 34(a), replace “outward report” with “advance notice of departure” in each place.

**9 New section 34AA inserted (Advance notice of departure may be provided by, or by agent of, owner or operator of craft)**

After section 34, insert:

**34AA Advance notice of departure may be provided by, or by agent of, owner or operator of craft**

The advance notice of departure referred to in section 34(a) may be provided, on behalf of the person in charge of the craft referred to in section 34, by—

- (a) the owner or operator of the craft; or
- (b) an agent of the owner or operator.

**10 New section 37A inserted (Outward cargo report)**

After section 37, insert:

**37A Outward cargo report**

- (1) This section applies to cargo on a craft if—
  - (a) the craft is to depart, or has departed, for a point outside New Zealand from a place in New Zealand; and
  - (b) the cargo is commercial or non-commercial cargo for discharge outside New Zealand.
- (2) Every person responsible for the carriage of the cargo on the craft must give to the Customs, before the prescribed deadline (which may be a time before or after the craft's departure from the point in New Zealand), a report on the cargo, unless a particular person of that kind is exempted from doing so because—
  - (a) that person has been advised by the chief executive that 1 or more other persons of that kind have already done so; or
  - (b) under this paragraph, and for another reason, the chief executive approves that person's being exempted from doing so.
- (3) A person is, for this section's purposes, responsible for the carriage of cargo on a craft only if the person (whether or not the person owns, or has any proprietary interest of any kind in, all or any part of the cargo) is—
  - (a) a person who is, or who is the agent of, the owner or operator of the craft; or
  - (b) a cargo aggregator who, in the course of that cargo aggregator's business, has (in or outside New Zealand) arranged for the carriage of the cargo on the craft under a shared space, or other negotiated volume of cargo, arrangement with the owner or operator of the craft.
- (4) The report must contain such information relating to the cargo (being information that is genuine, not erroneous in a material particular, and not misleading) as may be prescribed, and must be given in the prescribed form and manner.
- (5) The information referred to in subsection (4) must be accompanied by such supporting documents (being documents each of which is genuine, not erroneous, and not misleading) as the chief executive may require.

- (6) Information supplied under this section is subject to, but this section does not limit, section 204A (offence relating to failing to update information supplied in advance).

## 11 New section 48A and cross-heading inserted

After section 48, insert:

### *Transhipments: international or domestic*

#### **48A Transhipment requests**

- (1) This section applies to cargo on a craft if—
- (a) the craft—
    - (i) is en route to, or has arrived in, New Zealand, from a point outside New Zealand; or
    - (ii) is carrying goods subject to the control of the Customs brought in that craft or any other craft from a point outside New Zealand; or
    - (iii) is to depart, or is departing, for a point outside New Zealand from a place in New Zealand; and
  - (b) the cargo is to be or has been imported, but is to be or is being transhipped, either—
    - (i) internationally, in that it is not to be entered for home consumption in New Zealand, but is destined for, and will remain subject to the control of the Customs at all times until it reaches, a point outside New Zealand; or
    - (ii) domestically, in that it is not to be entered for home consumption at the (Customs or other) place to which the craft proceeded directly on arriving within New Zealand, but is destined for, and will remain subject to the control of the Customs at all times until it reaches, and is entered for home consumption at, some other (Customs or other) place within New Zealand.
- (2) Any person may, before the prescribed deadline, make to the chief executive a transhipment request in respect of the cargo.
- (3) The request must—
- (a) contain such information relating to the cargo (being information that is genuine, not erroneous in a material particular, and not misleading) as may be prescribed; and
  - (b) be made in the prescribed form and manner; and
  - (c) be accompanied by such supporting documents (being documents each of which is genuine, not erroneous, and not misleading) as the chief executive may require.

- (4) Information supplied under this section is subject to, but this section does not limit, section 204A (offence relating to failing to update information supplied in advance).
- (5) The chief executive must as soon as is reasonably practicable agree to or decline each transshipment request made.
- (6) A transshipment request agreed to by the chief executive authorises (under section 47(1)(a)) removal of the cargo from a Customs controlled area, for the transshipment purposes, and on the conditions (if any), the chief executive specifies when agreeing to the request.
- (7) However, a transshipment request agreed to by the chief executive does not limit or affect enactments in or under other Acts that apply to the cargo (for example, enactments in or under the Biosecurity Act 1993 on uncleared goods).
- (8) A person who is dissatisfied with a decision of the chief executive under subsection (4) may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

*Duties amendments effective 3 months after assent*

**12 Section 79A amended (Power to alter rates of excise duty and excise-equivalent duty on motor spirits by Order in Council)**

In section 79A(2), replace the definition of **motor spirits** with:

**motor spirits** means any 1 or more fuels that are—

- (a) motor spirit, or fuels that contain motor spirit; or
- (b) specified in the Excise and Excise-equivalent Duties Table under (or under later items or numbers that, with or without modification, replace, or correspond to) any of the following numbers or items (specified in that Table on the commencement of this definition):
  - (i) excise item numbers 99.75.05F, 99.75.23D, 99.75.29C, 99.75.37D, 99.75.51K, 99.75.59E, 99.75.73L, 99.75.81A, and 99.75.93E; and
  - (ii) Tariff items 2207.20.23, 2207.20.35, 2710.12.15, 2710.12.17, 2710.12.19, 2710.12.23, 2710.12.25, 2710.12.29, 2710.19.34, 2710.19.42, 3824.90.87, 3824.90.93, and 3826.00.20.

**13 Section 81 amended (Power of Governor-General in Council to suspend, remit, refund, or create exemptions from excise duties and excise-equivalent duties on goods supplied to certain organisations and their members)**

- (1) In section 81(1)(a), replace “Minister” with “chief executive”.
- (2) After section 81(2), insert:

- (3) An approval that was given by the Minister under subsection (1)(a) (as in force before the commencement of this subsection) and that was in force immediately before that commencement continues in force after that commencement as if it had been given (and may be amended, revoked, or revoked and replaced) by the chief executive under subsection (1)(a) (as in force after that commencement).
- (3) Subsection (4) amends the Excise and Excise-Equivalent Duties Exemption (Inter-Governmental Agreements) Order 1996.
- (4) In the Schedule,—
- (a) replace “Schedule 3 of the Customs and Excise Act 1996” with “the Excise and Excise-equivalent Duties Table (as defined in section 76A of the Customs and Excise Act 1996)”; and
  - (b) replace “Minister of Customs” with “chief executive (as defined in section 2(1) of the Customs and Excise Act 1996)”.

#### 14 Section 109 replaced (Reimportation of goods exported)

Replace section 109 with:

##### 109 Reimportation of goods exported

- (1) This section applies to goods only if the goods—
- (a) have been exported from New Zealand, and are to be or have been reimported into New Zealand; and
  - (b) when reimported into New Zealand, are to be or are in substantially the same condition as when exported from New Zealand.
- (2) The goods may, in any cases, and under any conditions, the chief executive from time to time approves, be readmitted—
- (a) free of duty; or
  - (b) at a rate or amount of duty the chief executive determines and that does not exceed the greater of the following:
    - (i) the rate or amount of duty that would be payable on the goods if imported for the first time;
    - (ii) the rate or amount of drawback of duty allowed under section 117 when the goods were (last) exported.

#### 15 Section 118 amended (Regulations may prescribe minimum duty collectable or refundable and minimum drawback allowable)

- (1) In the heading to section 118, replace “**minimum duty collectable or refundable**” with “**minimum duty collectable, value of goods below which duty need not be collected, minimum duty refundable,**”.
- (2) After section 118(a), insert:

- (ab) the value of goods below which duty need not be collected, how that value must be determined (despite anything to the contrary in this Act and, in particular, in the definition of Customs value or value in section 2(1), and in sections 60, 61, 63(6)(a), and 229(1)(a), and Schedule 2), and the circumstances in which that duty need not be collected; and
- (3) In section 118, insert as subsections (2) to (5):
- (2) Regulations made under section 286 and prescribing all or any of the matters specified in subsection (1)(a) or (ab) of this section may be made only on the Minister's recommendation.
- (3) Before making a recommendation under subsection (2), the Minister must be satisfied that the persons that the Minister considers are representative of interests likely to be substantially affected by the proposed regulations have been consulted about the proposed regulations to the extent that is reasonably practicable having regard to the circumstances of the case.
- (4) For the purposes of subsection (3), the Minister may take into account any relevant consultation undertaken by or on behalf of the Minister before that subsection comes into force.
- (5) A failure to comply with subsection (3) does not affect the validity of any regulations of the kind described in subsection (2).

*Trade Single Window amendments effective 3 months after assent*

**16 Part 11 replaced**

Replace Part 11 with:

**Part 11**  
**Joint Border Management System (JBMS)**

**131A Joint Border Management System (JBMS) defined**

**Joint Border Management System** or **JBMS**, in this Act, unless the context otherwise requires, means an integrated border management computer system that—

- (a) is designed for the collection, storage, and use of border information (as defined in section 282D) by—
- (i) the Ministry (as defined in section 282D); and
  - (ii) the Customs; and
- (b) enables entities to transmit information to it, and receive information from it, through systems that include, or may include, a system called Trade Single Window.

**131 Access generally restricted to registered users**

An entity must not access, transmit information to, or receive information from, the JBMS, unless that entity is—

- (a) a registered JBMS user (acting through a representative, if the entity is not an individual ordinarily resident in New Zealand); or
- (b) otherwise authorised by or on behalf of the chief executive to do so.

**132 Application to be registered JBMS user**

- (1) Any entity that wants to be a registered JBMS user may send the chief executive an application to be a registered JBMS user.
- (2) The entity may be an individual, a body corporate (whether incorporated in or outside New Zealand), or an unincorporated body of persons but, if the entity is not an individual ordinarily resident in New Zealand, the entity must nominate 1 or more individuals ordinarily resident in New Zealand to be the entity's representative or representatives.
- (3) The application must be written and in the prescribed form.
- (4) The applicant entity must provide, with and in relation to the application, the information prescribed.
- (5) The chief executive may require the applicant entity to provide either or both of the following:
  - (a) any additional information the chief executive considers necessary for the purposes of the application;
  - (b) evidence of the entity's competence in any area the chief executive considers relevant to the application.
- (6) The chief executive may, if the applicant entity is a body corporate or an unincorporated body, require additional information or evidence of that kind (including, without limitation, evidence of the competence in any area the chief executive considers relevant of all or any individuals who are representatives or other agents or employees of the entity) from all or any individuals (however described) concerned in the entity's management.

**132A Chief executive must determine application**

- (1) The chief executive must determine an application to be a registered JBMS user by—
  - (a) granting the application (subject to any conditions the chief executive thinks fit), if satisfied the applicant entity (including every nominated representative, if any, of the entity) is (subject to those conditions, if any) fit and proper to be (or, as the case requires, to be a or the nominated representative of) a registered JBMS user; or
  - (b) refusing the application, in every other case.

- (2) In determining whether the applicant entity (including every nominated representative, if any, of the entity) is fit and proper to be (or, as the case requires, to be a or the nominated representative of) a registered JBMS user, the chief executive may consider all relevant information available to the chief executive, and may take into account all or any of the following that apply to, or in respect of, the applicant entity (including every nominated representative, if any, of the entity):
- (a) a serious or repeated failure by or on behalf of the applicant entity to comply with requirements in or under this Act, the Biosecurity Act 1993, the Hazardous Substances and New Organisms Act 1996, or any other enactment that regulates the importation of goods (or with requirements in or under any corresponding overseas laws):
  - (b) convictions for any border-related offence, dishonesty offence, or drugs offence (as those terms are defined by section 132B, or for any corresponding offence against overseas laws) entered against all or any individuals who are, or are representatives or other agents or employees of, or are concerned in the management of, the applicant entity:
  - (c) other relevant grounds (including, without limitation, all other relevant grounds prescribed) for considering that the applicant entity (or, as the case requires, a or the nominated representative of the entity) is (in any way, and to any extent) likely to fail to comply with requirements in or under this Act, the Biosecurity Act 1993, or both (including, without limitation, the requirement to comply with conditions imposed under subsection (1)(a)).
- (3) Conditions imposed under subsection (1)(a) may, without limitation, relate to the purposes for which, or otherwise to the extent to which, the applicant entity (including every nominated representative, if any, of the entity) can access, transmit information to, or receive information from, the JBMS.
- (4) The chief executive must give written notice of his or her decision to the applicant entity.
- (5) An applicant entity that is dissatisfied with a decision of the chief executive under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

**132B Border-related offence, dishonesty offence, and drugs offence defined**

- (1) **Border-related offence**, in sections 132A(2)(b) and 135(1)(c), means an offence against this Act, or against an enactment in, or made under, any of the following enactments:
- (a) Agricultural Compounds and Veterinary Medicines Act 1997:
  - (b) Animal Products Act 1999:
  - (c) Biosecurity Act 1993:

- (d) Food Act 1981:
  - (e) Hazardous Substances and New Organisms Act 1996:
  - (f) Human Assisted Reproductive Technology Act 2004:
  - (g) Immigration Advisers Licensing Act 2007:
  - (h) Immigration Act 2009:
  - (i) Passports Act 1992:
  - (j) Protected Objects Act 1975:
  - (k) Terrorism Suppression Act 2002:
  - (l) Trade in Endangered Species Act 1989:
  - (m) regulations under the United Nations Act 1946:
  - (n) Wine Act 2003:
  - (o) any other enactment involving the unlawful entry into, or unlawful removal from, New Zealand, of a person, matter, or thing.
- (2) **Dishonesty offence**, in sections 132A(2)(b) and 135(1)(c), means an offence described in Part 10 of the Crimes Act 1961 except for an offence described in sections 267 to 271 of that Act.
- (3) **Drugs offence**, in sections 132A(2)(b) and 135(1)(c), means an offence against an enactment in, or made under, the Misuse of Drugs Act 1975.
- 133 Assignment, use, and security of unique user identifier**
- (1) An applicant entity that is registered as a JBMS user may be assigned by the chief executive a unique user identifier—
- (a) for use by the entity, or for use on its behalf by a or the nominated representative of it, in relation to the JBMS; and
  - (b) in a form, or of a nature, that the chief executive determines.
- (2) Subsection (1)—
- (a) authorises the Director-General (as defined in section 282D) to assign to an applicant entity that is an individual, or to an individual who is a or the nominated representative of an applicant entity that is not an individual, and to use for the purposes of the JBMS, a unique identifier that, to the Director-General’s knowledge, has been assigned to that individual by another agency (namely by the Customs, under subsection (1)); and so
  - (b) overrides information privacy principle 12(2) of (in section 6 of, and as contemplated by section 7(4) of) the Privacy Act 1993.
- (3) A unique user identifier assigned under subsection (1) must be used by or on behalf of the registered JBMS user for the purpose of transmitting information to or receiving information from the JBMS.

- (4) The chief executive may, by notice in writing, impose conditions on a particular registered JBMS user (including every nominated representative, if any, of the user), or on registered JBMS users generally (including every nominated representative, if any, of the users), relating to the use and security of unique user identifiers.

**134 Use of unique user identifier presumed secure**

- (1) If information is transmitted to the JBMS using a unique user identifier issued to a registered JBMS user by the chief executive for that purpose, the transmission of that information is, in the absence of proof to the contrary, sufficient evidence that the registered JBMS user or nominated representative of a registered JBMS user to whom the unique user identifier has been issued has transmitted that information.
- (2) If a unique user identifier is used by an individual who is not entitled to use it, subsection (1) does not apply if the registered JBMS user or nominated representative of a registered JBMS user to whom the unique user identifier was issued has, before the unauthorised use of that unique user identifier, notified the Customs that the unique user identifier is no longer secure.

**134A Conditions on registration of registered users**

- (1) The chief executive may impose a condition on the registration of either or both of the following:
- (a) a specified registered JBMS user or class of registered JBMS users (including every nominated representative, if any, of the user or users):
  - (b) all registered JBMS users (including their nominated representative or representatives, if any).
- (2) Conditions imposed under subsection (1) may, without limitation, relate to the purposes for which, or otherwise to the extent to which, the applicant entity (including every nominated representative, if any, of the entity) can access, transmit information to, or receive information from, the JBMS.
- (3) A condition imposed under subsection (1) must be notified in writing to each registered JBMS user concerned and must, unless the registered JBMS user appeals under subsection (4), be complied with on or before—
- (a) the 20th working day after the date of notification of the imposition of the condition on the registered JBMS user's registration; or
  - (b) a later date specified by the chief executive.
- (4) A registered JBMS user that is dissatisfied with the imposition under subsection (1) of a condition on that registered JBMS user's registration may appeal in writing to the Customs Appeal Authority within 20 working days after the date of notification of the imposition of the condition on the registered JBMS user's registration.

- (5) If the Customs Appeal Authority is of the view that the imposition under subsection (1) of the condition was reasonable in the circumstances, the registered JBMS user must comply with the condition on or before—
- (a) the 10th working day after the date of notification of the Authority's decision; or
  - (b) a later date specified by the Customs Appeal Authority.

**134B Border information supplied using JBMS must be supplied in approved form and manner**

- (1) This section applies to a requirement by or under this Act to supply to the Customs any border information (as defined in section 282D).
- (2) Any person who uses the JBMS to comply with the requirement (including, without limitation, by supplying the information to the Ministry, or to an appointed agency, in accordance with section 282G or 282K) must supply the information in a form and manner—
- (a) for complying with the requirement by using the JBMS; and
  - (b) for the time being generally approved in writing by the chief executive.
- (3) The approved form and manner referred to in subsection (2)—
- (a) must be notified via an Internet site that is, so far as practicable, publicly available free of charge; and
  - (b) may be set out, for the information of registered JBMS users, in Customs rules under section 288(1)(j).

**135 Cancellation or suspension of registration**

- (1) The chief executive may by written notice to a registered JBMS user (which must state grounds for the cancellation) cancel that registered JBMS user's registration if satisfied that the user (or, as the case requires, a or the nominated representative of the user)—
- (a) has failed to comply with a condition imposed by the chief executive under section 132A(1)(a) or 133(4); or
  - (b) has failed to comply with a condition imposed by the chief executive under section 134A(1) within the applicable time frame specified in section 134A(3) and (4); or
  - (c) has been convicted of any border-related offence, dishonesty offence, or drugs offence (as those terms are defined by section 132B); or
  - (d) is, on 1 or more prescribed grounds, unfit to continue to be (or, as the case requires, to be a or the nominated representative of) a registered JBMS user.
- (2) The chief executive may (despite subsection (1)) by written notice to a registered JBMS user (which must state grounds for the suspension) suspend that registered JBMS user's registration until a date or event specified in the notice

if satisfied that the registered JBMS user's registration should not be cancelled, but should instead be suspended until that date or event, because the user (or, as the case requires, a or the nominated representative of the user)—

- (a) has failed to comply with a condition imposed by the chief executive under section 132A(1)(a) or 133(4); or
  - (b) has failed to comply with a condition imposed by the chief executive under section 134A(1) within the applicable time frame specified in section 134A(3) and (4).
- (3) The date or event specified in the notice under subsection (2) may, but need not, be the date of the event that is or, as the case may be, the event that is, the user's (or, as the case requires, the nominated representative's) compliance with a condition imposed by the chief executive under section 132A(1)(a), 133(4), or 134A(1).
- (4) An entity dissatisfied with a decision of the chief executive under this section to cancel or suspend that entity's registration as a JBMS user may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

### **136 Customs must keep records of transmissions**

- (1) The Customs must keep a record of every transmission using the JBMS sent to, or received from, a registered JBMS user (including, without limitation, by way of a or the nominated representative of the user).
- (2) The record described in subsection (1) must be kept for—
  - (a) 7 years starting on the day after the date of the sending, or as the case requires the receipt, of the transmission; or
  - (b) any other period prescribed.

### **17 Section 182 amended (Unauthorised access to or improper use of Customs computerised entry processing system)**

- (1) In the heading to section 182, replace “**Customs computerised entry processing system**” with “**JBMS**”.
- (2) In section 182(1)(a), (b), and (c), replace “any Customs computerised entry processing system” with “the JBMS”.
- (3) In section 182(1)(b), replace “such a computer system” with “the JBMS”.

### **18 Section 183 amended (Interference with Customs computerised entry processing system)**

- (1) In the heading to section 183, replace “**Customs computerised entry processing system**” with “**JBMS**”.
- (2) In section 183(1)(a) and (b), replace “any Customs computerised entry processing system” with “the JBMS”.

- (3) In section 183(1)(c),—
- (a) replace “duplicate tape or disc or other medium” with “computer system”; and
  - (b) replace “a Customs computerised entry processing system” with “the JBMS”.

**19 Section 184 amended (Offences in relation to security of, or unauthorised use of, unique user identifiers)**

- (1) In section 184(1), replace “a Customs computerised entry processing system” with “the JBMS”.
- (2) In section 184(2), replace “Customs computerised entry processing system” with “JBMS”.

**20 Section 191 amended (Offences in relation to arrival of craft)**

- (1) In section 191(1)(a), replace “21(1)” with “21”.
- (2) After section 191(1)(a)(iii), insert:
  - (iiia) to ensure that information referred to in section 21(1)(a) is accompanied by the supporting documents required under section 21(2)(b); or
  - (iiib) to ensure that each supporting document that, as required under section 21(2)(b), accompanies information referred to in section 21(1)(a), is genuine, not erroneous in a material particular, and not misleading; or

**21 New section 192A inserted (Offences in relation to inward cargo report)**

After section 192, insert:

**192A Offences in relation to inward cargo report**

- (1) A person commits an offence if the person fails to comply with any 1 or more or all of the following requirements in section 21A (which relates to inward cargo reports):
  - (a) to give to the Customs before the prescribed deadline a report on the cargo:
  - (b) to give to the Customs a report containing such information relating to the cargo (being information that is genuine, not erroneous in a material particular, and not misleading) as may be prescribed:
  - (c) to give a report to the Customs in the prescribed form and manner:
  - (d) to ensure that information referred to in section 21A(4) is accompanied by the supporting documents required under section 21A(5):

- (e) to ensure that each supporting document that, as required under section 21A(5), accompanies information referred to in section 21A(4) is genuine, not erroneous, and not misleading.
- (2) Every person who commits an offence against this section is liable on conviction,—
  - (a) in the case of an individual, to a fine not exceeding \$5,000;
  - (b) in the case of a body corporate, to a fine not exceeding \$15,000.

**22 Section 193 amended (Offences in relation to departure of craft)**

In section 193(1)(b)(i), replace “outward reports” with “advance notices of departure”.

**23 Section 194 amended (Offences in relation to outward report)**

- (1) In the heading to section 194, replace “outward report” with “advance notice of departure”.
- (2) In section 194(1)(a), replace “outward report” with “advance notice of departure”.
- (3) In section 194(1)(b), replace “report” with “advance notice”.

**24 New sections 194B and 194C inserted**

After section 194A, insert:

**194B Offences in relation to outward cargo report**

- (1) A person commits an offence if the person fails to comply with any 1 or more or all of the following requirements in section 37A (which relates to outward cargo reports):
  - (a) to give to the Customs before the prescribed deadline a report on the cargo:
  - (b) to give to the Customs a report containing such information relating to the cargo (being information that is genuine, not erroneous in a material particular, and not misleading) as may be prescribed:
  - (c) to give a report to the Customs in the prescribed form and manner:
  - (d) to ensure that information referred to in section 37A(4) is accompanied by the supporting documents required under section 37A(5):
  - (e) to ensure that each supporting document that, as required under section 37A(5), accompanies information referred to in section 37A(4) is genuine, not erroneous, and not misleading.
- (2) Every person who commits an offence against this section is liable on conviction,—
  - (a) in the case of an individual, to a fine not exceeding \$5,000;
  - (b) in the case of a body corporate, to a fine not exceeding \$15,000.

**194C Offences in relation to transshipment requests**

- (1) A person who makes, or purports to make, a transshipment request, commits an offence if the person fails to comply with any 1 or more or all of the following requirements in section 48A:
  - (a) to make the request to the chief executive before the prescribed deadline;
  - (b) to ensure that the request contains such information relating to the cargo (being information that is genuine, not erroneous in a material particular, and not misleading) as may be prescribed;
  - (c) to ensure that each supporting document that, as required under section 48A(3)(c), accompanies a transshipment request is genuine, not erroneous, and not misleading.
- (2) Every person who commits an offence against this section is liable on conviction,—
  - (a) in the case of an individual, to a fine not exceeding \$5,000;
  - (b) in the case of a body corporate, to a fine not exceeding \$15,000.

**25 Section 195 amended (Defences)**

In section 195, replace “194A” with “194C”.

**26 New section 204A inserted (Offence relating to failure to update information supplied in advance)**

After section 204, insert:

**204A Offence relating to failure to update information supplied in advance**

- (1) This section applies to a person, and to information that the person supplies to the chief executive, the Customs, or a Customs officer, if—
  - (a) the person supplies the information for the purposes of an enactment in or made under this Act, and before the deadline prescribed by or under this Act for doing so; and
  - (b) the information becomes erroneous, or misleading in a material particular, after it is supplied but before that deadline and before the person is notified of any decision made in response to the information.
- (2) The person commits an offence if the person—
  - (a) knows, or ought reasonably to know, that the information has become erroneous or misleading in a material particular; and
  - (b) fails to take all reasonable steps to supply to the chief executive, the Customs, or a Customs officer, as soon as is reasonably practicable, replacement information that is not erroneous, or misleading in a material particular.
- (3) Every person who commits an offence against subsection (2), and in doing so under subsection (2)(a) ought reasonably to have known that the information

- had become erroneous or misleading in a material particular, is liable on conviction,—
- (a) in the case of an individual, to a fine not exceeding \$1,000; or
  - (b) in the case of a body corporate, to a fine not exceeding \$5,000.
- (4) Every person who commits an offence against subsection (2), and in doing so under subsection (2)(a) knew that the information had become erroneous or misleading in a material particular, is liable on conviction,—
- (a) in the case of an individual, to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$10,000; or
  - (b) in the case of a body corporate, to a fine not exceeding \$50,000.

**27 Section 282D amended (Definitions)**

- (1) In section 282D, repeal the definition of **biosecurity-related border management function**, and insert in its appropriate alphabetical order:

**Ministry-related border management function** means—

- (a) any function, duty, or power imposed or conferred on the Ministry by or under Part 3 of the Biosecurity Act 1993;
  - (b) any other function, duty, or power imposed or conferred on the Ministry by or under the Biosecurity Act 1993 that is necessary—
    - (i) to achieve the purpose of Part 3 of that Act; or
    - (ii) for the administration of Part 3 of that Act;
  - (c) any function, duty, or power imposed or conferred on the Ministry by or under any of the following Acts in relation to the effective management of risks associated with the movement of goods, persons, or craft into or out of New Zealand:
    - (i) the Food Act 1981;
    - (ii) the Hazardous Substances and New Organisms Act 1996;
    - (iii) the Agricultural Compounds and Veterinary Medicines Act 1997;
    - (iv) the Animal Products Act 1999;
    - (v) the Wine Act 2003;
    - (vi) any other Act specified by Order in Council made under section 165A of the Biosecurity Act 1993
- (2) In section 282D, definition of **border protection purpose**, paragraph (a), replace “biosecurity-related” with “Ministry-related”.
- (3) In section 282D, repeal—
- (a) the definition of **computer system**; and
  - (b) the definition of **Joint Border Management System** or **JBMS**.

**28 Section 282E amended (Purpose of sections 282F to 282H)**

- (1) In section 282E, before “operational”, insert “fully”.
- (2) In section 282E(b), replace “biosecurity-related” with “Ministry-related”.

**29 Section 282I amended (Expiry of sections 282E to 282H and agreements made under section 282H)**

- (1) After section 282I(1), insert:
  - (1A) A date later than 1 July 2015 appointed by an Order in Council under subsection (1) may, before that date, be replaced by another date later than 1 July 2015 appointed by a later Order in Council under subsection (1).
- (2) In section 282I(2), replace “implementation” with “full operationalisation”.

**30 New section 282JAA inserted (Application of sections 282J to 282L)**

Before section 282J, insert:

**282JAA Application of sections 282J to 282L**

- (1) Sections 282J to 282L apply to border information only on and after the date of expiry of the interim arrangements for information sharing (as that date of expiry is provided in section 282I(1)).
- (2) The interim arrangements for information sharing are the arrangements under all or any of the following:
  - (a) sections 282E to 282H (and any agreements under section 282H) of this Act; and
  - (b) sections 41B to 41E (and any agreements under section 41E) of the Biosecurity Act 1993.
- (3) On that date of expiry (as provided in section 282I(1)), sections 282E to 282I, and the cross-heading above section 282E, are repealed, and all orders (if any) under section 282I(2) are revoked.

**31 Section 284 amended (Giving of notice)**

- (1) In section 284(1)(g),—
  - (a) replace “a Customs computerised entry processing system and uses the system” with “the JBMS and uses the JBMS”; and
  - (b) replace “the relevant Customs computerised entry processing system” with “the JBMS”.
- (2) In section 284(2)(f),—
  - (a) replace “a Customs computerised entry processing system and uses the system” with “the JBMS and uses the JBMS”; and
  - (b) replace “the relevant Customs computerised entry processing system” with “the JBMS”.

- (3) In section 284(3)(e),—
- (a) replace “a Customs computerised entry processing system and uses the system” with “the JBMS and uses the JBMS”; and
  - (b) replace “the relevant Customs computerised entry processing system” with “the JBMS”.
- (4) In section 284(4)(d),—
- (a) replace “a Customs computerised entry processing system” with “the JBMS”; and
  - (b) replace “the relevant Customs computerised entry processing system” with “the JBMS”.

**32 Section 285 amended (Additional provision relating to notices under this Act)**

In section 285(2)(f), replace “the relevant Customs computerised entry processing system” with “the JBMS”.

**33 Section 286 amended (Regulations)**

- (1) Repeal section 286(1)(b) and (ba).
- (2) After section 286(1)(d), insert:
- (da) prescribing the deadline before which inward cargo reports must (under section 21A(2)) be given to the Customs under this Act:
  - (db) prescribing the deadline before which outward cargo reports must (under section 37A(2)) be given to the Customs under this Act:
- (3) In section 286(1)(e), after “must”, insert “(under section 26(2)(a))”.
- (4) In section 286(1)(ga), replace “outward reports” with “advance notices of departure”.
- (5) After section 286(1)(j), insert:
- (ja) prescribing the deadline before which transshipment requests must (under section 48A(2)) be made to the Customs under this Act:
- (6) Replace section 286(1)(x), (xa), and (y) with:
- (ya) prescribing, for the purposes of section 132A(2)(c), 1 or more other relevant grounds for considering that an applicant entity is likely to fail to comply with requirements in or under this Act, the Biosecurity Act 1993, or both:
  - (yb) prescribing, for the purposes of section 135(1)(d), 1 or more other grounds on which a registered JBMS user (or, as the case requires, a or the nominated representative of a registered JBMS user) may be considered unfit to continue to be (or, as the case requires, to be a or the nominated representative of) a registered JBMS user:

(yc) prescribing for the purposes of section 136(2)(b) a period other than that specified in section 136(2)(a) for which records of transmissions to or from the JBMS must be kept by the Customs:

**34 Section 286B amended (Regulations made under section 286A to be confirmed)**

- (1) In section 286B(1), delete “validated and”.
- (2) In section 286B(2), delete “validating and”.

**35 Section 288 amended (Chief executive may make rules for certain purposes)**

- (1) Before section 288(1)(a), insert:
  - (aaa) prescribing the form and content of, and the procedure to be followed in making, an application for an area to be licensed as a Customs controlled area:
  - (aab) prescribing the form and content of, and the procedure to be followed in making, an application for an area to be licensed as a CASE:
- (2) In section 288(1)(a), replace “outward reports” with “advance notices of departure”.
- (3) After section 288(1)(a), insert:
  - (aa) prescribing the form and manner in which an inward cargo report under section 21A must be given:
- (4) After section 288(1)(c), insert:
  - (ca) prescribing the form and manner in which an outward cargo report under section 37A must be given:
- (5) After section 288(1)(d), insert:
  - (da) prescribing the form and manner in which a transshipment request under section 48A must be made:
- (6) After section 288(1)(h), insert:
  - (ha) prescribing the form of application for registration as a JBMS user, and the information to be provided by the applicant:
- (7) After section 288(1)(i), insert:
  - (j) setting out, for the information of registered JBMS users, the form and manner for the time being generally approved in writing under a border management function Act (as defined in subsection (1A)) for complying with a requirement by or under that Act to supply any border information to the Customs or to the Ministry by using the JBMS.
- (8) After section 288(1), insert:
  - (1A) **Border management function Act**, in this section, means an Act that is—
    - (a) this Act (*see* section 134B(3)(b) of this Act); or

- (b) the Biosecurity Act 1993 (*see* section 7E(3)(b) of that Act); or
  - (c) an Act that is specified by regulations under section 165A of the Biosecurity Act 1993 to be an Act for the purposes of the definition of Ministry-related border management function in section 41A(1) of that Act (*see* section 7E(3)(b) of that Act); or
  - (d) the Agricultural Compounds and Veterinary Medicines Act 1997 (*see* section 4B(3)(b) of that Act); or
  - (e) the Animal Products Act 1999 (*see* section 6A(3)(b) of that Act); or
  - (f) the Food Act 1981 (*see* section 8AAA(3)(b) of that Act); or
  - (g) the Hazardous Substances and New Organisms Act 1996 (*see* section 97AA(3)(b) of that Act); or
  - (h) the Wine Act 2003 (*see* section 113A(3)(b) of that Act).
- (9) After section 288(2), insert:
- (2A) No rule under subsection (1)(j) setting out the form and manner prescribed by or under a border management function Act (as defined in subsection (1A)) can be made unless that rule has been developed by following a process—
- (a) agreed in writing between the chief executive and the chief executive of the department of State for the time being responsible for that Act’s administration; and
  - (b) for the purpose of developing all, or any specified, proposed rules of that kind; and
  - (c) promptly after it is agreed or amended, revoked, or revoked and replaced, notified via an Internet site that is, so far as practicable, publicly available free of charge.
- (10) In section 288(5), replace “paragraph (a), (b), (c), (g), (h), or (i)” with “any paragraph (except paragraph (d), (e), or (f))”.

**36 New section 306A inserted (Transitional and savings provisions relating to amendments to this Act)**

After section 306, insert:

**306A Transitional and savings provisions relating to amendments to this Act**

The transitional and savings provisions set out in Schedule 1AA, which relate to amendments to this Act that come into force on the day immediately after the expiry of the period of 3 months that starts on the date on which the Customs and Excise (Border Processing—Trade Single Window and Duties) Amendment Act 2014 receives the Royal assent, have effect for the purposes of this Act.

**37 New Schedule 1AA inserted**

Before Schedule 1, insert the Schedule 1AA set out in the Schedule of this Act.

**38 Consequential amendments to other Acts**

- (1) In the Copyright Act 1994, section 144A(2)(d)(iv),—
  - (a) replace “a Customs computerised entry processing system” with “the JBMS (within the meaning of section 131A of the Customs and Excise Act 1996)”; and
  - (b) replace “the relevant Customs computerised entry processing system” with “the JBMS”.
- (2) In the Copyright Act 1994, section 144B(2)(d)(iv),—
  - (a) replace “a Customs computerised entry processing system” with “the JBMS (within the meaning of section 131A of the Customs and Excise Act 1996)”; and
  - (b) replace “the relevant Customs computerised entry processing system” with “the JBMS”.
- (3) In the Trade Marks Act 2002, section 155B(2)(d)(iv),—
  - (a) replace “a Customs computerised entry processing system” with “the JBMS (within the meaning of section 131A of the Customs and Excise Act 1996)”; and
  - (b) replace “the relevant Customs computerised entry processing system” with “the JBMS”.
- (4) In the Trade Marks Act 2002, section 155C(2)(d)(iv),—
  - (a) replace “a Customs computerised entry processing system” with “the JBMS (within the meaning of section 131A of the Customs and Excise Act 1996)”; and
  - (b) replace “the relevant Customs computerised entry processing system” with “the JBMS”.

*Trade Single Window amendment effective on or before 1 July 2016*

**39 New section 134C inserted (Duty to use JBMS to supply border information to Customs)**

After section 134B (as inserted by section 16 of this Act), insert:

**134C Duty to use JBMS to supply border information to Customs**

- (1) This section applies to a requirement by or under this Act to supply to the Customs any border information (as defined in section 282D).
- (2) After the commencement of this section, the only ways in which a person can comply with the requirement are—
  - (a) by using the JBMS; or
  - (b) by using another means for the time being generally or specifically approved in writing by the chief executive.

**Schedule**  
**New Schedule 1AA of Customs and Excise Act 1996**

s 37

**Schedule 1AA**  
**Transitional and savings provisions relating to amendments to this Act**

ss 3A, 306A

**1 Changeover defined for purposes of clauses 2 and 3**

**Changeover**, in clauses 2 and 3, means the beginning of the day immediately after the expiry of the period of 3 months that starts on the date on which the Customs and Excise (Border Processing—Trade Single Window and Duties) Amendment Act 2014 receives the Royal assent.

**2 Transfer of registered users of Customs computerised entry processing system**

- (1) This subclause applies to an individual who, immediately before the changeover, is registered as a user of a Customs computerised entry processing system.
- (2) An individual to whom subclause (1) applies—
  - (a) has, after the changeover, deemed registration as a JBMS user under section 132 (as in force after the changeover); and
  - (b) must as soon as practicable after the changeover be assigned a unique user identifier for use in relation to the JBMS under section 133 (as in force after the changeover).
- (3) The deemed registration under subclause (2)(a) is subject to conditions under sections 132A(1)(a), 133(4), and 134A(1) (as in force after the changeover) the same as the conditions (if any) to which the individual was, immediately before the changeover, subject under sections 132(2), 133, or 134A(1) (as in force before the changeover), and may be cancelled or suspended under section 135 (as in force on and after the changeover).
- (4) The conditions referred to in subclause (3) may be amended, revoked, or revoked and replaced under sections 132A(1)(a), 133(4), and 134A(1) (as in force after the changeover).

**3 Applications to be registered user of Customs computerised entry processing system**

- (1) This subclause applies to an application that is—
  - (a) made under section 132 (as in force before the changeover); and
  - (b) not withdrawn or finally determined before the changeover.

- (2) An application to which subclause (1) applies must be treated as an application under section 132 (as in force after the changeover) to be a registered JBMS user.

## **Reprints notes**

### **1     *General***

This is a reprint of the Customs and Excise (Border Processing—Trade Single Window and Duties) Amendment Act 2014 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### **2     *Legal status***

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3     *Editorial and format changes***

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4     *Amendments incorporated in this reprint***

Customs and Excise Act 2018 (2018 No 4): section 442