CAYMAN ISLANDS

CUSTOMS AND BORDER CONTROL (AMENDMENT) BILL, 2024

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A BILL FOR AN ACT TO AMEND THE CUSTOMS AND BORDER CONTROL ACT (2024 REVISION) TO INTRODUCE A RATE OF DUTY OF TWO PER CENT ON TEMPORARY IMPORTS; TO INTRODUCE NEW OFFENCES; TO PROVIDE FOR ADMINISTRATIVE PENALTIES IN RESPECT OF CERTAIN OFFENCES; TO PROVIDE THAT, UNLESS OTHERWISE SPECIFIED, APPLICATION FEES ARE NON-REFUNDABLE; AND FOR INCIDENTAL AND CONNECTED PURPOSES

PUBLISHING DETAILS

Sponsoring Ministry/Portfolio: Ministry of Border Control, Labour and Culture (BCLC)

Memorandum of

OBJECTS AND REASONS

This Bill seeks to amend the Customs and Border Control Act (2024 Revision) ("the principal Act") to introduce a rate of duty of two per cent on temporary imports.

The Bill also amends the principal Act to introduce new offences and to provide for administrative penalties in respect of certain offences.

Further, the Bill provides that, unless otherwise specified, application fees are non-refundable.

Clause 1 provides for the short title and commencement of the legislation.

Clause 2 amends the principal Act by repealing and substituting section 22. The substituted section 22 introduces a rate of duty of two per cent on temporary imports.

Clause 3 amends section 86 of the principal Act by changing the penalty where, among other things, the master or captain of the vessel transports to the Islands passengers or crew who are required to have a valid entry visa or proof of citizenship, and are not in possession of such documents. The amendment proposes to introduce an administrative penalty for such an offence.

Clause 4 amends section 94 of the principal Act to provide that a parent who fails to report the birth of the child to the Director within three months after the birth of the child commits an offence and is liable to an administrative penalty.

The clause also amends section 94 of the principal Act to provide that an application submitted under that section shall be accompanied by the prescribed application fee, the prescribed administrative fee and the prescribed non-refundable repatriation fee, as applicable.

Clause 5 amends section 105 of the principal Act to make it an offence for a person to knowingly assist or cause another person to remain or reside in the Islands where the remaining or residing would be in contravention of the legislation.

Clause 6 amends the principal Act by inserting proposed section 128A. The proposed section 128A provides that unless otherwise specified, application fees prescribed under the legislation are non-refundable.

Clauses 7 and 8 amend Schedules 1 and 2 to the principal Act respectively to provide for administrative penalties being introduced under the legislation and related amendments.

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ENACTED by the Legislature of the Cayman Islands.

Short title and commencement

1. (1) This Act may be cited as the Customs and Border Control (Amendment) Act, 2024.

(2) This Act shall come into force on such date as may be appointed by Order made by the Cabinet and different dates may be appointed for different provisions of this Act and in relation to different matters.

Repeal and substitution of section 22 of the Customs and Border Control Act (2024 Revision) - temporary imports

2. The *Customs and Border Control Act (2024 Revision)*, in this Act referred to as the "principal Act", is amended by repealing section 22 and substituting the following section —

"**Temporary imports**

22. (1) Subject to any conditions as the Director may think fit to impose, goods which the Director is satisfied are temporarily imported with a view to subsequent exportation are subject to a rate of duty of two per cent.

(2) Notwithstanding subsection (1), if the rate of duty in respect of a good imported into the Islands and enumerated in Schedule 1 to the *Customs Tariff Act (2023 Revision)* is zero per cent, the rate of duty under subsection (1) does not apply with respect to retention of that good in the Islands for either period referred to in subsection (4).

(3) Any goods temporarily imported which are not re-exported within the period or extended period referred to in subsection (4) become liable to the full duty payable in respect of those goods or such part thereof, as the Director considers appropriate in the circumstances of the case, as if the same had been imported without reference to this section.

(4) For the purposes of this section, "**temporarily imported**", in relation to a good, means the good is to be retained in the Islands —

(a) for a period not exceeding six months; or

(b) on prior receipt of an application in the form and manner approved by the Director, for an extended period as the Director may authorize.".

Amendment of section 86 - inward passenger and crew manifests

3. The principal Act is amended in section 86 as follows —

(a) in subsection (3), by deleting the words "is liable to be fined by an officer or a sum of two thousand dollars" and substituting the words "is liable to an administrative penalty"; and

(b) by repealing subsection (4).

Amendment of section 94 - entry by persons other than Caymanians or persons legally and ordinarily resident

4. The principal Act is amended in section 94 as follows —

(a) by repealing subsection (7) and substituting the following subsections —

"(7) In the case of a child born in the Islands in circumstances that the child does not acquire the right to be Caymanian at birth —

(a) a parent of the child shall report the birth of the child to the Director within three months after the birth of the child; and

(b) the child shall be subject to the control of Customs and Border Control in a manner appropriate in all the circumstances and having regard to the immigration status of the parents or, in the case of a child whose parents are not married or not in a civil partnership, of the mother.

(7A) A parent who contravenes subsection (7)(a) commits an offence and is liable to an administrative penalty."; and

(b) by repealing subsection (10) and substituting the following subsection —

"(10) An application submitted under this section shall be accompanied by the prescribed application fee, the prescribed administrative fee and the prescribed non-refundable repatriation fee, as applicable.".

Amendment of section 105 - offences relating to illegal landing and powers of arrest

5. The principal Act is amended in section 105 by inserting after subsection (2) the following subsection —

"(2A) A person who —

(a) knowingly assists or causes another person to remain or reside in the Islands where the remaining or residing would be in contravention of this Act;

(b) connives in such remaining or residing in the Islands; or

(c) wilfully does an act preparatory to paragraph (a) or (b),

commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for seven years.".

Insertion of section 128A - application fees non-refundable

6. The principal Act is amended by inserting after the Part heading for Part 9 the following section —

"**Application fees non-refundable**

128A. Unless otherwise specified, application fees prescribed under this Act are non-refundable.".

Amendment of Schedule 1 - administrative offences

7. The principal Act is amended in Schedule 1 by deleting the table and substituting the following table —

"Item Number	Relevant provision	Description of administrative offence	Administrative Penalty
1.	Section 12(8)	Making a false declaration or false disclosure in respect of money being transported into or exported out of the Islands.	A fine of up to the value of the difference between the amount declared and the total amount being carried.
2.	Section 86(3)	The master or captain of a vessel transporting to the Islands passengers or crew — (a) who are required to have a valid entry visa or proof of citizenship, and who are not in possession of such documents; or (b) in respect of whom the master or captain provides false information in relation to the master's or captain's duty under section 86(1) and (2).	A fixed fine of $5,000 in respect of each passenger or crew member — (a) who is required to have a valid entry visa or proof of citizenship, and who is not in possession of such documents; or (b) in respect of whom the master or captain provides false information in relation to the master's or captain's duty under section 86(1) and (2).
3.	Section 94(7A)	A parent failing to report the birth of the parent's child to the Director more than 3 months	• Where more than 3 months but less than 1 year has passed after the

		after the birth of the child	birth of the child, a fixed fine of $300. • Where 1 year or more but less than 3 years have passed after the birth of the child — (a) a fixed fine of $300 for the period between 3 months and 1 year; and (b) a fixed fine of $500 for each year or part of a year during the period of 1 to 3 years. • Where 3 years or more but less than 5 years have passed after the birth of the child — (a) a fixed fine of $300 for the period between 3 months and 1 year; (b) a fixed fine of $500 for each year or part of a year during the period of 1 to 3 years; and (c) a fixed fine of $750 for each year or part of a year during the

			period of 3 to 5 years. • Where 5 years or more has passed after the birth of the child — (a) a fixed fine of $300 for the period between 3 months and 1 year; (b) a fixed fine of $500 for each year or part of a year during the period of 1 to 3 years; (c) a fixed fine of $750 for each year or part of a year during the period of 3 to 5 years; and (d) a fixed fine of $1000 for each year or a part of a year that passes after the period of 5 years, up to $10,000.
4.	Section 105(1)(c)	Remaining or residing in the Islands for up to 60 days beyond the time permitted for the person to remain or reside in the Islands.	In the case of the first offence, a fixed fine of $500. In the case of the second or subsequent offence, a fixed fine of $1,000.

5.	Section 105(2A)	A natural person other than an employer — (a) knowingly assisting or causing a person to remain or reside in the Islands for up to 60 days beyond the time permitted for the person to remain in the Islands where the remaining or residing would be in contravention of this Act; (b) conniving in such remaining or residing in the Islands; or (c) wilfully doing an act preparatory to paragraph (a) or (b).	In the case of the first offence, a fixed fine of $500. In the case of the second or subsequent offence, a fixed fine of $1,000.
6.	Section 105(2A)	A natural person who is an employer — (a) knowingly assisting or causing a person to remain or reside in the Islands for up to 60 days beyond the time permitted for the person	In the case of the first offence, a fixed fine of $1,000. In the case of the second or subsequent offence, a fixed fine of $2,000.

		to remain in the Islands where the remaining or residing would be in contravention of this Act; (b) conniving in such remaining or residing in the Islands; or (c) wilfully doing an act preparatory to paragraph (a) or (b).	
7.	Section 105(2A)	A legal person — (a) knowingly assisting or causing a person to remain or reside in the Islands for up to 60 days beyond the time permitted for the person to remain in the Islands where the remaining or residing would be in contravention of this Act; (b) conniving in such remaining or residing in the Islands; or (c) wilfully doing	In the case of the first offence, a fixed fine of $2,500. In the case of the second or subsequent offence, a fixed fine of $5,000.”.

		an act preparatory to paragraph (a) or (b).	

Amendment of Schedule 2 - form of ticket

8. The principal Act is amended in Schedule 2 as follows —

(a) by deleting the table under the heading "**List of administrative offences**" and substituting the following table —

"Item Number	Relevant provision	Description of administrative offence	Administrative Penalty	Tick relevant box
1.	Section 12(8)	Making a false declaration or false disclosure in respect of money being transported into or exported out of the Islands.	A fine of up to the value of the difference between the amount declared and the total amount being carried.	□
2.	Section 86(3)	The master or captain of a vessel transporting to the Islands passengers or crew — (a) who are required to have a valid entry visa or proof of citizenship, and who are not in possession of such documents; or (b) in respect of whom the master or captain	A fixed fine of $5,000 in respect of each passenger or crew member — (a) who is required to have a valid entry visa or proof of citizenship, and who is not in possession of such documents; or (b) in respect of whom the master or	□

		provides false information in relation to the master's or captain's duty under section 86(1) and (2).	captain provides false information in relation to the master's or captain's duty under section 86(1) and (2).	
3.	Section 94(7A)	A parent failing to report the birth of the parent's child to the Director more than 3 months after the birth of the child	• Where more than 3 months but less than 1 year has passed after the birth of the child, a fixed fine of $300. • Where 1 year or more but less than 3 years have passed after the birth of the child — (a) a fixed fine of $300 for the period between 3 months and 1 year; and (b) a fixed fine of $500 for each year or part of a year during the	□

			period of 1 to 3 years. • Where 3 years or more but less than 5 years have passed after the birth of the child — (a) a fixed fine of $300 for the period between 3 months and 1 year; (b) a fixed fine of $500 for each year or part of a year during the period of 1 to 3 years; and (c) a fixed fine of $750 for each year or part of a year during the period of 3 to 5 years. • Where 5 years or more has passed after the birth of the child — (a) a fixed	

			fine of $300 for the period between 3 months and 1 year; (b) a fixed fine of $500 for each year or part of a year during the period of 1 to 3 years; (c) a fixed fine of $750 for each year or part of a year during the period of 3 to 5 years; and (d) a fixed fine of $1000 for each year or a part of a year that passes after the period of 5 years, up to $10,000.	
4.	Section 105(1)(c)	Remaining or residing in the Islands for up to 60 days beyond the	In the case of the first offence, a fixed fine of $500.	□

		time permitted for the person to remain or reside in the Islands.	In the case of the second or subsequent offence, a fixed fine of $1,000.	
5.	Section 105(2A)	A natural person other than an employer — (a) knowingly assisting or causing a person to remain or reside in the Islands for up to 60 days beyond the time permitted for the person to remain in the Islands where the remaining or residing would be in contravention of this Act; (b) conniving in such remaining or residing in the Islands; or (c) wilfully doing an act preparatory to	In the case of the first offence, a fixed fine of $500. In the case of the second or subsequent offence, a fixed fine of $1,000.	□

		paragraph (a) or (b).		
6.	Section 105(2A)	A natural person who is an employer — (a) knowingly assisting or causing a person to remain or reside in the Islands for up to 60 days beyond the time permitted for the person to remain in the Islands where the remaining or residing would be in contravention of this Act; (b) conniving in such remaining or residing in the Islands; or (c) wilfully doing an act preparatory to paragraph (a) or (b).	In the case of the first offence, a fixed fine of $1,000. In the case of the second or subsequent offence, a fixed fine of $2,000.	□

7.	Section 105(2A)	A legal person — (a) knowingly assisting or causing a person to remain or reside in the Islands for up to 60 days beyond the time permitted for the person to remain in the Islands where the remaining or residing would be in contravention of this Act; (b) conniving in such remaining or residing in the Islands; or (c) wilfully doing an act preparatory to paragraph (a) or (b).	In the case of the first offence, a fixed fine of $2,500. In the case of the second or subsequent offence, a fixed fine of $5,000.	□”;

(b) by deleting the words “second column” and substituting the words “third column”; and

(c) by deleting the words “third column” and substituting the words “fourth column”.

Passed by the Parliament the day of , 2024.

Speaker

Clerk of the Parliament