



DÁIL ÉIREANN

**AN BILLE CUSTAM, 2014
CUSTOMS BILL 2014**

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

DÁIL ÉIREANN

AN BILLE CUSTAM, 2014 —ROGHFHOCHOISTE

CUSTOMS BILL 2014 —SELECT SUB-COMMITTEE

Leasuithe Amendments

SECTION 2

1. In page 8, between lines 26 and 27, to insert the following:

“ “duties of customs” has the same meaning as “import duties” or “export duties” have, as the case may be, in the Customs Code;”.

—An tAire Airgeadais.

2. In page 9, to delete lines 18 and 19.

—An tAire Airgeadais.

3. In page 9, between lines 21 and 22, to insert the following:

“(a) an officer of the Commissioners, not so authorised,”.

—An tAire Airgeadais.

SECTION 5

4. In page 11, line 12, to delete “has been” and substitute “stands”.

—An tAire Airgeadais.

SECTION 6

5. In page 11, line 32, after “may,” to insert “in consultation with the Minister for Transport, Tourism and Sport,”.

—An tAire Airgeadais.

6. In page 12, between lines 11 and 12, to insert the following:

“(6) The Minister shall provide regulations as to how these controls are applied to foreign military aircraft which land within the State.”.

—Pearse Doherty.

7. In page 12, between lines 11 and 12, to insert the following:

“(6) The Minister shall provide regulations as to how these controls are applied to foreign military naval craft which land within the State.”.

—Pearse Doherty.

[SECTION 7]

SECTION 7

8. In page 12, line 30, to delete “staff,” and substitute “staff”.

—An tAire Airgeadais.

SECTION 8

9. In page 13, line 19, to delete “immediately”.

—An tAire Airgeadais.

SECTION 9

10. In page 13, between lines 26 and 27, to insert the following:

“Report inwards and outwards of vessels

9. (1) The master of a vessel, whether laden or in ballast, entering the State shall—
- (a) under and in accordance with regulations under *subsection (3)*, submit or cause to be submitted a report of the vessel to the Commissioners, and
 - (b) answer all questions relating to the voyage, vessel, passengers, crew, baggage, conveyances and goods or stores carried on board, as may be put to him or her by an officer of customs.
- (2) The master of a vessel, whether laden or in ballast, departing the State shall—
- (a) under and in accordance with regulations under *subsection (3)*, submit or cause to be submitted a report of the vessel to the Commissioners, and
 - (b) answer all questions relating to the voyage, vessel, passengers, crew, baggage, conveyances and goods or stores carried on board, as may be put to him or her by an officer of customs.
- (3) The Commissioners may make regulations for the purposes of *subsections (1) and (2)* specifying—
- (a) the circumstances in which reports are required to be submitted and may specify different reporting requirements for different types and classes of vessel, and for different activities,
 - (b) the place and time for submission of such reports, and
 - (c) the form, manner and particulars of such reports.
- (4) A person who contravenes *subsection (1) or (2)* commits an offence and is liable on summary conviction to a fine of €5,000.”.

—An tAire Airgeadais.

[*Acceptance of this amendment involves the deletion of section 9 of the Bill.*]

SECTION 10

11. In page 15, line 1, to delete “immediately”.

—An tAire Airgeadais.

[SECTION 10]

12. In page 15, line 6, to delete “immediately”.

—An tAire Airgeadais.

SECTION 11

13. In page 15, between lines 11 and 12, to insert the following:

“Report inwards and outwards of aircraft

11. (1) The pilot-in-command of an aircraft entering the State shall—
- (a) under and in accordance with regulations under *subsection (3)*, submit or cause to be submitted a report of the aircraft to the Commissioners, and
 - (b) answer all questions relating to the flight, aircraft, passengers, crew, baggage, conveyances and goods or stores carried on board, as may be put to him or her by an officer of customs.
- (2) The pilot-in-command of an aircraft departing the State shall—
- (a) under and in accordance with regulations under *subsection (3)*, submit or cause to be submitted a report of the aircraft to the Commissioners, and
 - (b) answer all questions relating to the flight, aircraft, passengers, crew, baggage, conveyances and goods or stores carried on board, as may be put to him or her by an officer of customs.
- (3) The Commissioners may make regulations for the purposes of *subsections (1) and (2)* specifying—
- (a) the circumstances in which reports are required to be submitted and may specify different reporting requirements for different types and classes of aircraft, and for different activities,
 - (b) the place and time for submission of such reports, and
 - (c) the form, manner and particulars of such reports.
- (4) A person who contravenes *subsection (1) or (2)* commits an offence and is liable on summary conviction to a fine of €5,000.”.

—An tAire Airgeadais.

[*Acceptance of this amendment involves the deletion of section 11 of the Bill.*]

SECTION 12

14. In page 15, between lines 30 and 31, to insert the following:

“Control of persons and their baggage

12. (1) A person entering or leaving the State shall—
- (a) at such place as the Commissioners may designate and in such manner as the Commissioners may determine, declare to an officer of customs any goods included in his or her baggage or brought with him or her, which are liable to any

[SECTION 12]

duty or tax, or are subject to any prohibition or restriction on importation or exportation,

- (b) answer such questions as may be put to him or her by an officer of customs, in exercise of the powers conferred on the officer by *section 31*, with respect to—
 - (i) the person’s arrival or departure,
 - (ii) the person’s identity, usual place of residence and actual or intended address within the State,
 - (iii) the person’s baggage, and
 - (iv) anything included in that baggage or brought by that person by whatever means,
 - (c) if required by that officer, produce and unpack that baggage and any such thing for examination, and repack it following such examination, and
 - (d) remain present for the duration of such examination.
- (2) For the purposes of *subsection (1)(a)*, where a channel system is in place at a customs port or customs airport, a person entering the State shall declare, by electing to enter and entering the red channel, that he or she has in his or her baggage, or has brought with him or her goods that are liable or may be liable to any duty or tax, or that are subject or may be subject to any prohibition or restriction on importation.
- (3) A person entering the State who leaves a place approved under *section 7(1)*, or who leaves a customs port or customs airport, without making a declaration under *subsection (1)* shall be deemed to have declared that there are no goods included in his or her baggage or brought with him or her, that are liable or may be liable to any duty or tax, or that are subject or may be subject to any prohibition or restriction on importation.
- (4) A person who contravenes *subsection (1)* commits an offence and is liable on summary conviction to a fine of €5,000.
- (5) In this section and in *section 13*, “duty or tax” means duties of customs, excise duty or Value-Added Tax payable on goods imported or exported.”.

—An tAire Airgeadais.

[*Acceptance of this amendment involves the deletion of section 12 of the Bill.*]

15. In page 16, between lines 7 and 8, to insert the following:

“(2) Any person searched or found to be liable for duty or tax on goods imported may request in writing the reason they have been charged this duty or tax or the reason they were searched by making a request at the time or in writing.”.

—Pearse Doherty.

SECTION 13

16. In page 16, line 39, to delete “in the form of a Single Administrative Document (SAD)”.

—An tAire Airgeadais.

[SECTION 14]

SECTION 14

17. In page 18, line 27, to delete “6 months” and substitute “12 months”.

—An tAire Airgeadais.

SECTION 15

18. In page 19, line 32, to delete “*subsection (1)(i)*” and substitute “*subsection (1)(j)*”.

—An tAire Airgeadais.

19. In page 19, line 37, to delete “6 months” and substitute “12 months”.

—An tAire Airgeadais.

SECTION 21

20. In page 22, line 24, after “offence” to insert “under the Customs Acts”.

—An tAire Airgeadais.

21. In page 22, line 29, to delete “under this Act” and substitute “under the Customs Acts”.

—An tAire Airgeadais.

22. In page 23, line 12, to delete “under this Act” and substitute “under the Customs Acts”.

—An tAire Airgeadais.

23. In page 23, lines 14 and 15, to delete “under this Act” and substitute “under the Customs Acts”.

—An tAire Airgeadais.

24. In page 23, to delete line 16.

—An tAire Airgeadais.

SECTION 22

Section opposed.

—Pearse Doherty.

SECTION 25

25. In page 25, line 12, after “*section 7(1)*” to insert “or *section 13(2)*”.

—An tAire Airgeadais.

SECTION 30

26. In page 29, line 20, after “*section 29*” to insert “, or on board a conveyance that has been boarded under *section 27,*”.

—An tAire Airgeadais.

SECTION 31

27. In page 30, lines 25 to 28, to delete all words from and including “(1) An” in line 25 down to and including line 28 and substitute the following:

“(1) An officer of customs may, subject to *subsection (2)*, stop any person entering or leaving the State and question that person with respect to—

- (a) the person’s arrival or departure,

[SECTION 31]

- (b) the person's identity, usual place of residence and actual or intended address within the State,
- (c) the person's baggage, and
- (d) anything included in that baggage or brought by that person by whatever means, and the officer may examine any such baggage or thing."

—An tAire Airgeadais.

SECTION 33

- 28.** In page 31, line 33, after "proceedings." to insert the following:

"After 30 days, and after each period of 30 days, the officer must seek permission from a District Court Judge to continue to hold the goods."

—Pearse Doherty.

SECTION 40

- 29.** In page 34, after line 42, to insert the following:

"40. Within one month of the passing of this Act the Minister for Finance shall lay before the Houses of the Oireachtas a report on the effect of fuel, tobacco and other types of smuggling on the economy and propose in conjunction with the Northern Ireland Assembly measures to tackle these crimes."

—Pearse Doherty.

- 30.** In page 35, line 35, to delete "Part 7 of the Taxes Consolidation Act 1997" and substitute "*Part 7*".

—An tAire Airgeadais.

SECTION 41

- 31.** In page 36, line 38, to delete "Commissioners" and substitute "Minister".

—An tAire Airgeadais.

- 32.** In page 37, to delete lines 4 to 8 and substitute the following:

"(10) (a) Without prejudice to the generality of *subsection (4)*, any person who uses personal data from the Customs Information System (CIS) other than for the purpose of the aim specified in Article 1(2) of the CIS Decision, shall—

- (i) where the case is one to which *paragraph (b)* applies, be guilty of an offence under section 19(6) of the Data Protection Act 1988, or
- (ii) where the case is one to which *paragraph (c)* applies, be guilty of an offence under section 22(1) of that Act.

(b) This paragraph applies to a case in which—

- (i) the person referred to in *paragraph (a)* is a data controller within the meaning of the Data Protection Act 1988 in respect of whom there is an entry in the register established and maintained under section 16 of that Act or an employee or agent (other than a data processor within the meaning of that

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Act) of such a data controller, and

- (ii) the use of the data for the purpose referred to in *paragraph (a)* is done knowingly.
- (c) This paragraph applies to a case in which—
 - (i) the person referred to in *paragraph (a)* is not a data controller, or an employee or agent of a data controller, as referred to in *paragraph (b)(i)*, and
 - (ii) the use made of the data by the person involves the disclosure of the data to another person.”.

—An tAire Airgeadais.

SECTION 42

33. In page 37, between lines 32 and 33, to insert the following:

“Controls of cash entering or leaving European Union through the State

42. (1) As provided for by Article 2 of the 2005 Regulation, the Commissioners, as the customs authority in the State, are the competent authority to apply that Regulation.
- (2) As provided for by Article 3 of the 2005 Regulation, any natural person entering or leaving the European Union and carrying cash of a value of €10,000 or more is obliged to make a declaration to the competent authority and, for that purpose, the declaration shall be made in writing and in such form and manner as the Commissioners may determine and be made to the Commissioners in the case of such person so entering or leaving the Community through the State.
- (3) An officer of customs may seize and, in accordance with this section, detain any cash worth not less than €10,000 that is being imported into or exported from the European Union through the State in contravention of the 2005 Regulation and this section.
- (4) For the purposes of checking if a person has complied with the obligation to declare, on entering or leaving the European Union, that he or she has possession of cash worth not less than €10,000, an officer of customs may do one or more of the following:
- (a) question the person on so entering or leaving the European Union through the State for the purpose of establishing whether or not he or she has in his or her possession an amount of cash worth not less than €10,000;
 - (b) search the person’s baggage and means of transport.
- (5) Where as a consequence of any response or lack of response to any question asked under *subsection (4)(a)* or a search carried out under *subsection (4)(b)*, or both, an officer of customs has reasonable grounds to suspect that the person—
- (a) is importing into or exporting from the European Union through the State in contravention of the 2005 Regulation and this section, or
 - (b) intends or is about to so import or export in contravention of the 2005 Regulation and this section,

[SECTION 42]

an amount of cash worth not less than €10,000, then the officer may search the person or cause the person to be searched by another officer of customs and *section 30(2), (3), (4) and (6)* shall apply to the carrying out of such a search under this section.

- (6) Where it is intended to prosecute for an offence under *subsection (7)*, cash seized by virtue of this section may continue to be detained until the prosecution is finally determined.
- (7) A person who fails to make a correct and complete declaration as required by *subsection (2)* commits an offence and is liable on summary conviction to a fine of €5,000.
- (8) In this section “2005 Regulation” means Regulation (EC) No. 1889/2005 of the European Parliament and of the Council of 26 October 2005¹.
- (9) A word or expression that is used in this section and is also used in the 2005 Regulation has the same meaning in this section as it has in that Regulation.”.

—An tAire Airgeadais.

¹ O.J. No. L309, 25.11.2005, p.9

SECTION 46

34. In page 39, line 30, to delete “Appeal Commissioners” and substitute “Commissioners”.

—An tAire Airgeadais.

35. In page 39, lines 31 to 33, to delete all words from and including “, whose” in line 31 down to and including “law” in line 33 and substitute “. Any person who wishes to, may appeal this decision to the District Court”.

—Pearse Doherty.

NEW SECTION

36. In page 41, after line 7, to insert the following:

“Interest

50. Where any duties of customs which a person is liable to pay to the Commissioners are not so paid, simple interest on the amount shall be paid by the person to the Commissioners and such interest shall be calculated from the date on which the duties of customs became payable and at the rate specified in section 991(1)(d) of the Taxes Consolidation Act 1997.”.

—An tAire Airgeadais.

37. In page 41, after line 7, to insert the following:

“Amendment of section 1078 (Revenue offences) of the Taxes Consolidation Act 1997

51. Section 1078 of the Taxes Consolidation Act 1997 is amended in subsection (2)—

- (a) by substituting the following for paragraph (d):

“(d) knowingly or wilfully issues or produces any incorrect invoice,

