

## **REGULATORY IMPACT STATEMENT**

### **Customs and Excise Amendment Bill 2010**

#### **AGENCY DISCLOSURE STATEMENT**

This Regulatory Impact Statement (RIS) has been prepared by the New Zealand Customs Service (Customs).

It provides an analysis of the impacts of statutory changes that are proposed to meet the Government's priorities relating to the delivery of the Joint Border Management System, and enhance collaboration of border agencies.

The analysis in this RIS focuses on the regulatory and compliance impacts of three amendments proposed to the Customs and Excise Act 1996 (and consequential amendments to the Biosecurity Act 1993).

I have reviewed the RIS prepared by Customs and associated supporting material, and consider that the information and analysis summarised in the RIS meets the quality assurance criteria.

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## **EXECUTIVE SUMMARY**

Government has signalled the need for the need for more effective and enhanced collaboration between agencies at the border, and enhanced value for money by eliminating duplicated services. In addition, Government has approved the funding of the first stage of the Joint Border Management System (JBMS) – an integrated computerised system to provide border management services for Customs and the Ministry of Agriculture and Forestry (MAF).

Legislation is required to implement proposals to:

- develop a legislative framework to oversee the future sharing of information between border agencies
- enable Customs overall stewardship and management of integrated border management systems generally, and hence mandate the operation of the JBMS
- provide an interim legislative framework to support the immediate sharing of information for two short term projects

The proposed amendments to the Customs and Excise Act 1996 (and consequential amendments to the Biosecurity Act 1993) will be made through the Customs and Excise Amendment Bill 2010 (the Bill).

### **OBJECTIVES**

The amendments proposed in the Bill have a range of the objectives including:

- enhancing coordination between Customs and other government departments and reducing duplication of processes
- enhancing risk management.

## **REGULATORY IMPACT ASSESSMENT**

### **I. FUTURE PROOFING CUSTOMS' INFORMATION SHARING**

#### **STATUS QUO AND PROBLEM**

Information sharing between border agencies is currently governed by a complex web of statutory provisions. Particular exchanges of information are permitted by specific legislation. Such provisions typically only apply to a narrow range of information or in a narrow range of situations.

Other exchanges of information are permitted on a case by case basis within the framework created by the interface between the Official Information Act 1982 and the Privacy Act 1993. This interface is legally and operationally and/or administratively complex. Customs' efforts in recent years to focus on enhanced collaboration with other agencies at the border have relied on this set of statutory provisions.

The existing provisions have allowed Customs to enhance collaboration initiatives, but they have highlighted the need for a simpler, clearer and more transparent regime of more general application. Based on a range of agency interrelationships and connections, Customs anticipates increased requirements in the future for information access with a range of other domestic and overseas agencies.

## **PROPOSAL**

The preferred option is to amend the Customs and Excise Act 1996 (the Act) to provide for the making of regulations in future to specify agencies which can access defined information held by Customs, including specific conditions on the use of the information by accessing agencies.

The option of requiring legislative changes to be made in response to each specific information sharing need identified, was considered not appropriate. This is due to the expected substantial delays caused by the lengthy legislative process and its resource demand.

This framework is the preferred option because:

- it will have sufficient flexibility to be able to deliver additional process efficiency in the future
- it properly considers privacy interests that arise through requiring regulatory changes to be discussed with the Privacy Commissioner
- it ensures ongoing Parliamentary oversight through the Regulations Review Committee.

## **IMPACT ON BUSINESS**

This is an enabling provision which will have no initial impact on business. When regulations are made under this provision, the impact on business will be considered as part of the regulatory change process.

## **II. SUPPORTING THE JOINT BORDER MANAGEMENT SYSTEM**

### **STATUS QUO AND PROBLEM**

The JBMS is designed to achieve substantial benefits from automated information storage, and sharing across the border sector. This requires sharing on a programmed and automated basis.

The current statutory provisions for information sharing on a case by case basis are not sufficient to cover the quantity of information and process for information sharing between Customs and MAF through the JBMS and the Trade Single Window.

### **PROPOSAL**

The preferred option is to amend the Act to:

- enable Customs' overall stewardship and operation of the JBMS
- mandate the accessing and use by Customs of information stored in the JBMS which is allowed in the Act
- mandate the accessing and use by MAF of information stored in the JBMS which is allowed for in the Biosecurity Act 1993.

This amendment is required to facilitate access to the common set of data required by both Customs and MAF. The proposed approach is the logical option to enable Customs and MAF to share this information without duplicating collection processes which has consequential compliance costs for stakeholders.

The regulatory framework proposed in Section I above, is designed to define access to information by agencies that have a need for more specific information data sets.

This proposal is to enable MAF to access potentially broader classes of information held by Customs, that MAF requires to undertake its border management role as it transitions from 100 percent screening to risk management.

#### **IMPACT ON BUSINESS**

The JBMS and Trade Single Window will allow traders and other commercial entities to enter information once, which will then be accessible by both MAF and Customs. This will reduce the compliance costs to industry. It also enhances the effectiveness of border agencies by reducing the costs of capturing and accessing the information.

### **III. INTERIM SUPPORT FOR THE CRAFT CLEARANCE PROJECT AND THE PASSENGER PROJECT**

#### **STATUS QUO AND PROBLEM**

The Craft Clearance and Passenger Projects are being implemented prior to the design and development of the JBMS. These projects are based on information sharing across existing data sets. An interim arrangement is therefore required to provide statutory authority for the sharing of existing data sets between Customs and MAF.

#### **PROPOSAL**

The preferred approach is to amend the Act to enable MAF to access and use information, collected before or after commencement of the Customs and Excise Amendment Bill 2010, for the purposes of the Craft Clearance Project and the Passenger Project.

The provision will only apply to the lifetime of the Craft Clearance Project and the Passenger Project, and is intended to expire twelve months after the JBMS is operational.

The alternative, which is administratively cumbersome, is to have information shared only on a case by case basis which would require a Customs officer to make a judgement on transferring information on every passenger or craft, individually.

#### **IMPACT ON BUSINESS**

This proposal does not create additional compliance costs to business. It is an interim amendment to assist Customs and MAF to deliver on priorities to enhance collaboration at the border, until the JBMS is operational.