

No. of 2021

VIRGIN ISLANDS

CUSTOMS MANAGEMENT AND DUTIES (AMENDMENT) ACT, 2021

ARRANGEMENT OF SECTIONS

Section

- 1... Short title and commencement.
- 2... Section 87 amended.

No. of 2021

**Customs Management and Duties
(Amendment) Act, 2021**

**Virgin
Islands**

I Assent

Governor

, 2021

VIRGIN ISLANDS

No. of 2021

A BILL for

An Act to amend the Customs Management and Duties Act, 2010 (No. 6 of 2010) and to provide for other matters connected therewith.

[Gazetted , 2021]

ENACTED by the Legislature of the Virgin Islands as follows:

Short title and commencement. **1.** (1) This Act may be cited as the Customs Management and Duties (Amendment) Act, 2021.

(2) This Act shall come into force on such date as the Minister may, by Notice published in the *Gazette*, appoint.

Section 87 amended. **2.** Section 87 of the Customs Management and Duties Act, 2010 is amended –

(a) by inserting after subsection (2), the following new subsection –

“(2A) Where a person receives in the Territory cash exceeding ten thousand dollars imported or transported from outside the Territory by any other means (other than as prescribed in subsection (2)), including by mail or cargo, he or she shall make a declaration thereof at the place and in the manner the Commissioner may direct.”;

(b) in subsection (4) by deleting the words “declare any baggage or thing” and substituting the words “make a declaration”;

(c) by repealing subsection (5) and substituting the following subsection –

“(5) Without prejudice to subsection (4), anything that is required to be declared by virtue of subsection (2) which is not so declared, or anything which is being brought into or taken out of the Territory contrary to a prohibition or restriction in force under this Act or any other enactment, is liable to forfeiture.”; and

(d) by inserting after subsection (5), the following new subsections –

“(5A) The Commissioner shall submit a report to the Financial Investigation Agency in respect of –

(a) a suspicion of a physical cross-border transportation of cash;

(b) a declaration by any person of cash above ten thousand dollars;

(c) an under-declaration of cash by any person; or

(d) any failure by any person to declare cash as required under this section; and

(e) any explanation the person referred to in paragraph (b), (c) or (d) might have provided for the declaration, under-declaration or failure to declare.

(5B) A report by the Commissioner under subsection (5A) shall be submitted as soon as possible, and in any case not later than twenty-one days, after the occurrence of the event mentioned in that subsection and shall include the name, address and other contact details of the person concerned.

(5C) The Commissioner shall establish appropriate safeguards and policies to ensure that information collected or received under this section in respect of declarations, under-declarations or non-declarations of cash is properly maintained and used so as not to restrict –

(a) trade payments between the Territory and other countries for goods and services; or

OBJECTS AND REASONS

This Bill seeks to amend the Customs Management and Duties Act, 2010 (Act No. 6 of 2010) (“the Act”) to ensure the Territory’s aim of fully complying with the standards established under the FATF Recommendations. In particular, the Bill amends section 87 of the Act relating to the declaration of goods transported into or exported from the Territory. In addition to the requirement for declarations of cash and other goods, whether on the body or in the baggage of a person travelling into or out of the Territory, the Bill makes a similar requirement in respect of the transportation of cash and other things transported through the mail or by cargo. The declaration is to be made at such place and manner as the Commissioner of Customs may determine.

Furthermore, the Bill requires the Commissioner of Customs to provide the Financial Investigation Agency all information relative to declarations of cash above the established threshold of \$10,000, under-declarations of cash and non-declarations of cash. This obligation should be carried out through a report to the Financial Investigation Agency as soon as possible after the occurrence of the event relating to the declaration, under-declaration or non-declaration of cash. This will enable the FIA to better safeguard the Territory against the activities of money laundering, terrorist financing and proliferation financing.

In order not to restrict trade payments between the Territory and other countries and maintain the freedom of capital movement (save as may otherwise be provided in an enactment), the Bill places an obligation on the Commissioner of Customs to establish appropriate policies and safeguards with respect to the use of declarations received by Customs. This is also a standard obligation under the FATF Recommendations.

Accordingly, the Hon. Members of the House of Assembly are encouraged to lend support to the Bill.

Minister of Finance