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TRAVELLERS CURRENCY DECLARATION (AMENDMENT) BILL, 2018

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TRAVELLERS CURRENCY DECLARATION (AMENDMENT) BILL, 2018

AN ACT TO AMEND THE TRAVELLERS CURRENCY DECLARATION ACT

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act which amends the Travellers Currency Declaration Act, 2015 may be cited as the Travellers Currency Declaration (Amendment) Act, 2018.
- (2) This Act shall come into force on the date the Travellers Currency Declaration Act, 2015 comes into force.

2. Amendment to section 1 of the principal Act.

The Short Title of the principal Act is amended by the deletion of the word "Travellers".

3. Amendment of section 3 of the principal Act.

Section 3 of the principal Act is amended—

- (a) in subsection (1) by the insertion immediately after the words "instruments" the words "or precious metals or precious stones";
- (b) in subsection (2)(a)—
 - (i) by the insertion immediately after the words "Form No. C17" the words "or Form No. C18 as applicable,";
 - (ii) by the deletion of the words "Customs Management Regulations, 2014" and the substitution therefor of the words "Customs Management Regulations, 2013";

- (c) in subsection (2)(b), by the insertion immediately after the words “Protection;”, the word “and”; and
- (d) by the insertion after subsection (2), of the following new subsection—
 - “(3) The declaration in subsection (1) shall be recorded by the proper officer who shall provide the information to the Financial Intelligence Unit.”.

4. Repeal and replacement of sections 4 and 5 of the principal Act.

Sections 4 and 5 of the principal Act are repealed and replaced as follows—

“4. Detention and forfeiture of currency, other negotiable instruments or precious metals or precious stones.

- (1) Customs may seize and detain in whole or in part the amount of the non-declared or falsely declared currency or bearer negotiable instruments or precious metals or precious stones —
 - (a) if there are reasonable grounds for suspecting that —
 - (i) it is or they are proceeds of an offence; or
 - (ii) it is or they are terrorist property;
 - (iii) it represents or they represent an instrumentality used or intended for use in the commission of such an offence; or
 - (b) if there is a false declaration or a failure to declare.
- (2) Property detained under subsection (1) shall not be detained for more than seventy two hours after seizure, unless a magistrate orders its continued detention for a period not exceeding three months from the date of the original detention or seizure.
- (3) The magistrate may order such further detention upon being satisfied that—
 - (a) there was a false declaration or disclosure or a failure to declare or disclose, or there are reasonable grounds for the suspicion referred to in subsection (1); and
 - (b) the continued detention of the property is justified while —
 - (i) its origin or derivation is further investigated; or
 - (ii) consideration is given to the institution in The Bahamas or elsewhere of criminal proceedings against any person for an offence with which the seized item is connected.

- (4) A magistrate may subsequently order the continued detention of the seized property if satisfied of the matters in subsection (3) for further periods of three months but the total period of all detentions shall not exceed two years from the date of the first order made under that subsection.
- (5) Subject to subsection (6), property detained under this section may be released in whole or in part to the person on whose behalf it was transported —
 - (a) by order of a magistrate that its continued detention is no longer justified, upon application by or on behalf of that person and after considering any representations of the Customs Department; or
 - (b) by Customs if satisfied that the continued detention of the seized property is no longer justified.
- (6) Property detained under this section shall not be released if —
 - (a) an application for restraint, confiscation or forfeiture of the property is made or pending under the Proceeds of Crime Act; or
 - (b) proceedings have been instituted in The Bahamas or elsewhere against any person for an offence with which the property is connected, unless and until the proceedings related to an offence have been concluded.
- (7) For the purposes of this section —
 - “precious metals” means any precious metal in bullion;
 - “precious stones” means any loose or uncut precious stones or jewellery which are intended for trade;
 - “terrorist property” has the same meaning as in section 2 of the Proceeds of Crime Act.

5. Offences and penalties.

- (1) Any person who—
 - (a) makes a declaration which is false or incorrect in any material particular commits an offence and is liable upon summary conviction to a fine not exceeding ten thousand dollars or to imprisonment of a term not exceeding three years or to both such fine and imprisonment;
 - (b) fails to declare anything as required by this Act commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars;

- (c) where required by this Act, refuses to answer any question lawfully put to him by the proper officer, refuses to answer such question or makes any statement which is false or incorrect in any material particular in reply thereto, commits an offence and is liable upon summary conviction to a fine not exceeding five thousand dollars or to imprisonment of a term not exceeding three years, or to both such fine and imprisonment; and
- (d) fails to produce any baggage or thing for examination as required by this Act, commits an offence and is liable upon summary conviction to a fine not exceeding ten thousand dollars.

(2) Where an offence has been committed under this Act—

- (a) any baggage or thing in relation to that offence; or
- (b) all currency which is the subject matter of the false or incorrect statement or declaration to which that offence relates,

is liable to forfeiture.”.

5. Repeal and replacement of the Schedule to principal Act.

The Schedule to the principal Act is repealed and replaced as follows—

“ **SCHEDULE**
(section 3)
DECLARATION FORM

Each person or responsible family member travelling is required to complete this form and if they are travelling with cash or negotiable instruments, or precious metals or precious stones, of a value equivalent to ten thousand dollars or more is required to read the notes on the reverse before completing all items in this form.

- 1. _____
Family Name First Middle
- 2. **Date of Birth** _____
Day Month Year
- 3. **Nationality** _____ **Passport No.** _____
- 4. I am/We are ordinarily resident in The Bahamas Yes [] No []
- 5. **Airline Flight No. or Vessel** _____
- 6. **Address in The Bahamas:**

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Hotel/House/Apt. No. Street Address Island

7. Household members for whom you are declaring:

Family Name	First	Middle
Family Name	First	Middle
Family Name	First	Middle

8. I/We have cash and/or negotiable instruments and/or precious metals or precious stones, of a value equivalent to ten thousand dollars or more to declare.

Yes [] No []

If Yes, I/We have cash and/or negotiable instruments, in the value of \$ _____.

If Yes, I/We have precious metals or precious stones in the value of \$ _____.

I have read the information on the reverse of this form and have made a true, accurate and complete declaration.

Signature: _____ Date: _____
Day Month Year

Customs Use Only

**CURRENCY DECLARATION (CUSTOMS FORM)
REVERSE
IMPORTANT INFORMATION**

You are required to declare imports and exports —

- (a) of cash and negotiable instruments of a value equivalent to ten thousand dollars or more;
- (b) of loose or uncut precious stones or jewellery with intention to trade of a value equivalent to ten thousand dollars or more and;
- (c) precious metals in bullion.

“Cash” includes coins and bank notes in any currency. “Negotiable instruments” includes monetary instruments such as cheques, travellers cheques, promissory notes, money orders and instruments in bearer form.

Any person who makes an oral or written declaration that is false or incorrect is liable upon

conviction to a fine not exceeding ten thousand dollars, or imprisonment for a term not exceeding three years or to both fine and imprisonment or forfeiture of the baggage and its contents.

All expressions of value shall be in Bahamian currency.”.

6. Transitional.

Any reference to the Travellers Currency Declaration Act in any written law in force or having effect on or after the commencement of this Act shall be construed as a reference to the Currency Declaration Act.

OBJECTS AND REASONS

Clause 2 of the Bill seeks to amend the name of the Act to Currency Declaration Act to permit the declaration of currency.

Clause 3 of the Bill seeks to make reference to the new forms C17 and C18 as provided for in the Customs Management Regulations, 2013 and to provide for the completion of the Currency Declaration Form by all persons entering The Bahamas by air and leaving The Bahamas by air except those departing on a pre-cleared flight to the United States of America.

Clause 4 of the Bill seeks to revise the offences and penalties provisions to make them consistent with the penalties provided in the Customs Management Act, 2011. Clause 4 of the Bill also provides the circumstances when Customs officers may seize, detain, or forfeit currency or other negotiable instruments, precious metals and precious stones.

Clause 5 of the Bill seeks to revise the Currency Declaration Form to include a request for a passenger's date of birth and other travel information.

Clause 6 of the Bill seeks to provide that any reference in law to Travellers Currency Declaration Act, after the commencement of this Act and due to the amendment in clause 2 of this Bill, shall be a reference to the Currency Declaration Act.