

EXPLANATORY STATEMENT

CEO Instrument of Approval No. 13 of 2010

Customs Act 1901

Subsection 4A(1) of the *Customs Act 1901* (the Act) defines an approved form as a form that is approved, by instrument in writing, by the Chief Executive Officer of Customs (**CEO**). Subsection 4A(2) of the Act provides that the instrument by which a form is approved by the CEO under subsection 4A(1), is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*. Under paragraph 6(d) of the *Legislative Instruments Act 2003*, approved forms are legislative instruments.

Background

Paragraphs 68(1)(d) to (i) of the Act list certain classes of goods which, if imported into Australia, are not required to be entered. Goods that are the accompanied personal or household effects of a passenger of a ship or an aircraft are such a class of goods (paragraph 68(1)(d) refers). Despite being exempt from formal import entry requirements, subsection 71AAAB(1) of the Act provides that the owner of such goods must, in the circumstances specified in the regulations, provide, under section 71, the information specified in the regulations at the time and in the manner and form specified in the regulations.

Regulation 41 of the *Customs Regulations 1926* provides that if a Collector requires information under subsection 71AAAB(1) of the Act, then it must be provided in an approved form or an approved statement.

Instrument

CEO Instrument No. 13 of 2010 approves the "Incoming passenger card" form (No. 15 MLY (Design date 11/10)) as the approved form for the purposes of providing, in the Malay language, information required under subsection 71AAAB(1) of the Act in relation to imported goods that are accompanied personal or household effects of a passenger of a ship or aircraft.

The main change from the previously approved "Incoming passenger card" form involves the inclusion in Question 1 of the word 'illegal' immediately before the word 'pornography.' The "Incoming passenger form" as it currently reads includes all pornography. By including an express reference to 'illegal pornography' is intended to clarify the type of pornography that must be declared.

Consultation

Consultation was not required under section 17 of the *Legislative Instruments Act 2003* as the instrument is of a minor or machinery nature and does not substantially alter existing arrangements. However, Customs and Border Protection has consulted with key stakeholders including Classification Operations Branch of the Attorney-General's Department and the key association representing the Australian adult retailers and entertainment industry about the preferred approach to amending the wording of the IPC to clarify the type of pornography to be declared on arrival.

Commencement

The instrument commences on the day after it is registered on the Federal Register of Legislative Instruments.