



Customs and Migration Legislation Amendment (2016 Measures No. 1) Regulation 2016

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation.

Dated 08 December 2016

Peter Cosgrove
Governor-General

By His Excellency's Command

Peter Dutton
Minister for Immigration and Border Protection

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1 Name

This is the *Customs and Migration Legislation Amendment (2016 Measures No. 1) Regulation 2016*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	13 December 2016

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the following:

- (a) the *Customs Act 1901*;
- (b) the *Migration Act 1958*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Fees

Part 1—Migration

Migration Regulations 1994

1 Regulation 1.03

Insert:

gateway airport has the meaning given by subregulation 5.41C(3).

international traveller has the meaning given by subregulation 5.41C(3).

overseas flight has the meaning given by subregulation 5.41C(3).

special processing area has the meaning given by subregulation 5.41C(3).

statutory function has the meaning given by subregulation 5.41C(3).

2 Subregulation 5.36(4) (at the end of paragraph (c) of the definition of fee)

Add “except regulation 5.41C”.

3 At the end of Division 5.7 of Part 5

Add:

5.41C Fees for performing functions relating to certain international travellers using gateway airports

- (1) If, at the request of a person, the Secretary arranges for a statutory function to be performed:
 - (a) in a special processing area for the performance of the function at a gateway airport; and
 - (b) in relation to one or more international travellers using the gateway airport; the person must pay the Commonwealth an agreed fee in respect of the performance of the statutory function and any other statutory functions in relation to those international travellers.

Note: An agreed fee in respect of the performance of the statutory function and other statutory functions may be payable in anticipation of the performance of the function.

- (2) On behalf of the Commonwealth, the Secretary may make, with a person making a request described in subregulation (1), an agreement relating to the amount and payment of a fee that is or will be payable under that subregulation.
- (3) In these Regulations:

gateway airport means an aerodrome (whether a proclaimed airport or not) used by aircraft on overseas flights.

international traveller using a gateway airport means a person who:

- (a) arrives at the gateway airport aboard an aircraft on an overseas flight; or

- (b) is due to depart from the gateway airport aboard an aircraft on an overseas flight.

overseas flight means:

- (a) a flight from a place outside Australia to a place in Australia; or
- (b) a flight from a place in Australia to a place outside Australia (whether or not after calling at other places in Australia).

special processing area of a gateway airport for the performance of a particular statutory function means:

- (a) if the gateway airport is commonly used for overseas flights—an area of the gateway airport other than an area in which that function is performed in relation to:
 - (i) a majority of international travellers arriving at the gateway airport aboard aircraft on overseas flights; or
 - (ii) a majority of international travellers due to depart from the gateway airport aboard aircraft on overseas flights; or
- (b) if the gateway airport is not commonly used for overseas flights—an area of the gateway airport in which that function is, or is to be, performed in relation to international travellers using the gateway airport.

statutory function means a function under:

- (a) the Act; or
- (b) regulations made under the Act.

Part 2—Customs

Customs Regulation 2015

4 Section 4

Insert:

gateway airport: see subsection 150A(3).

international traveller: see subsection 150A(3).

overseas flight: see subsection 150A(3).

special processing area: see subsection 150A(3).

statutory function: see subsection 150A(3).

5 At the end of Part 17

Add:

Division 5—Fees

150A Fees for performing functions relating to goods of certain international travellers using gateway airports

- (1) If, at the request of a person, the Comptroller-General of Customs arranges for a statutory function to be performed:
- (a) in a special processing area for the performance of the function at a gateway airport; and
 - (b) in relation to goods of one or more international travellers using the gateway airport;

the person must pay the Commonwealth an agreed fee in respect of the performance of the statutory function and any other statutory functions in relation to those goods.

Note: An agreed fee in respect of the performance of the statutory function and other statutory functions may be payable in anticipation of the performance of the function.

- (2) On behalf of the Commonwealth, the Comptroller-General of Customs may make, with a person making a request described in subsection (1), an agreement relating to the amount and payment of a fee that is or will be payable under that subsection.
- (3) In this instrument:

gateway airport means an aerodrome (whether an airport or not) used by aircraft on overseas flights.

international traveller using a gateway airport means a person who:

- (a) arrives at the gateway airport aboard an aircraft on an overseas flight; or
- (b) is due to depart from the gateway airport aboard an aircraft on an overseas flight.

overseas flight means:

- (a) a flight from a place outside Australia to a place in Australia; or
- (b) a flight from a place in Australia to a place outside Australia (whether or not after calling at other places in Australia).

special processing area of a gateway airport for the performance of a particular statutory function means:

- (a) if the gateway airport is commonly used for overseas flights—an area of the gateway airport other than an area in which that function is performed in relation to goods of:
 - (i) a majority of international travellers arriving at the gateway airport aboard aircraft on overseas flights; or
 - (ii) a majority of international travellers due to depart from the gateway airport aboard aircraft on overseas flights; or
- (b) if the gateway airport is not commonly used for overseas flights—an area of the gateway airport in which that function is, or is to be, performed in relation to goods of international travellers using the gateway airport.

statutory function means a function under:

- (a) the Act; or
- (b) regulations made under the Act.