



NEW ZEALAND
CUSTOMS SERVICE
TE MANA ĀRAI O AOTEAROA

WELLINGTON

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PROTECTING NEW ZEALAND'S BORDER

16 May 2023

Ref: OIA 23-151

Mr Dominic Scheirlinck

By email: fyi-request-22504-5d996e14@requests.fyi.org.nz

Dear Mr Scheirlinck

Request for information under the Official Information Act

Thank you for your email dated 19 April 2023, to the New Zealand Customs Service (Customs) via the FYI website, in which you request the following information under the Official Information Act 1982 (the OIA):

“Your website says in 2018/19, Customs conducted 671 initial searches and 47 full searches of electronic devices, which were carried by 364 travellers – so 99.99% of the 14.5 million passengers travelling to and from New Zealand each year do not have their electronic devices searched.

Could you please tell me which days within the 2018/19 year this statistic pertains to? (The text "2018/19" implies a start/end date within the year. e.g. July 1 2018 to July 1 2019)

Then, I would like similar statistics for the 3 (or possibly 4) subsequent, complete, yearly periods, up until the present day. So, for each subsequent period ("2019/20", "2020/21", "2021/22" and "2022/23" (if complete)), I would like:

The number of initial searches of electronic devices

The number of full searches of electronic devices

The number of passengers who were carrying such searched devices

The total number of passengers travelling to and from NZ

In addition to these statistics, for each period, could you please tell me:

The number of prosecutions made under section 228 subsection (8) of the Customs and Excise Act 2018 - i.e. failing to comply with duty to assist access to device

The number of devices treated as forfeited by a Customs officer who retains a device under section 228 subsection (10) of that same act (i.e. prior to a person being convicted under subsection (8))

The number of devices condemned to the Crown, destroyed, and returned, under section 228 subsection (11) of that same act (i.e. after a person is convicted under subsection (8))”

Part 1

Could you please tell me which days within the 2018/19 year this statistic pertains to? (The text "2018/19" implies a start/end date within the year. e.g. July 1 2018 to July 1 2019)

In response to the first part of your request, I can advise that the 2018/19 time period referred to in your request is from 1 October 2018 (when the Customs and Excise Act 2018 came into effect) to 30 June 2019.

Part 2

Then, I would like similar statistics for the 3 (or possibly 4) subsequent, complete, yearly periods, up until the present day. So, for each subsequent period ("2019/20", "2020/21", "2021/22" and "2022/23" (if complete)), I would like:

- *The number of initial searches of electronic devices*
- *The number of full searches of electronic devices*
- *The number of passengers who were carrying such searched devices*
- *The total number of passengers travelling to and from NZ*

In response to the second part of your request, please find attached a document titled 'OIA 23-151 – E-devices 2018-2022' which contains information on the number of e-devices searched by Customs, and the passengers carrying those e-devices each year from 1 October 2018 to 30 June 2022. Data after this time period is currently unavailable as it has yet to be confirmed and finalised.

While the information contained in the attached document is accurate at the date of extraction from Customs' database, the information in Customs' database can be updated or amended at any time.

Part 3

In addition to these statistics, for each period, could you please tell me:

- *The number of prosecutions made under section 228 subsection (8) of the Customs and Excise Act 2018 - i.e. failing to comply with duty to assist access to device*
- *The number of devices treated as forfeited by a Customs officer who retains a device under section 228 subsection (10) of that same act (i.e. prior to a person being convicted under subsection (8))*
- *The number of devices condemned to the Crown, destroyed, and returned, under section 228 subsection (11) of that same act (i.e. after a person is convicted under subsection (8))*

In regard to the third part of your request regarding Customs' actions pursuant to sections 228(8), 228(10) and 228(11) of the Act, I have been advised that Customs is not aware of any individuals having been charged under sections 228(8), or goods condemned to the Crown under 228(11) of the Act however, Customs is aware of three devices belonging to the same individual, being forfeit to the Crown under section 228(10) of the Act in 2020, prior to the individual being convicted.

As further background to the third part of your request, section 228 of the Act authorises Customs to examine e-devices for the purpose of establishing that the e-device contains

evidential material relating to relevant offending. When evidence of offending is identified on an e-device, the offender is charged with the more serious charge relevant to the offending, rather than under section 228 of the Act, which is only finable.

If you have any queries in regard to this response, please contact the Correspondence, Reviews and Ministerial Servicing Team: OIA@customs.govt.nz.

Please note that Customs proactively releases responses to Official Information Act requests on our website. As such, we may publish this response on our website after we have sent it to you. Your name and contact details will be removed.

Yours sincerely

A handwritten signature in black ink, consisting of a large loop at the top and a smaller loop at the bottom, with a horizontal stroke at the base.

Terry Brown
Group Manager, Intelligence, Investigations and Enforcement