

WELLINGTON

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PROTECTING NEW ZEALAND'S BORDER

29 August 2016

Ref: PS OIA 16-221

By email: [REDACTED]

Dear [REDACTED]

Request for official information

Thank you for your email addressed to the Minister of Customs and dated 24 August 2016, relating to the New Zealand Customs Service's (Customs) treatment of a passenger which was shown on the television show *Border Patrol* on 22 August 2016.

Your request has been transferred to Customs for a response. In particular, you have asked the following questions:

1. *Please can you advise what date that incident was filmed and what steps have and will be taken to ensure your officials understand s8(2)(l) of the Misuse of Drugs Act.*
2. *Please also advise if any apology to the visitor and/or public correction is intended.*

In respect of question one, I can advise you that the segment you refer to was filmed at Auckland International Airport on 19 December 2014.

Customs is satisfied that its officers have sufficient understanding of the provisions of section 8(2)(l)(iii) of the Misuse of Drugs Act 1975 (the MODA), which provides an exemption for people entering or leaving the country with up to one month's supply of a controlled drug, in specific circumstances. The controlled drug must have been lawfully supplied, and supplied for the purpose of treating a medical condition.

In a letter of response to one of your previous Official Information Act requests (Customs reference OIA 16-056), you were provided with excerpts from two documents which explain the application of section 8(2)(l)(iii) of MODA to Customs staff:

- *'Benchmark: Your guide to the search area', and*
- *'Operational Procedure 109 – Handling of Controlled Drugs, Medicines, Unknown Powders and Psychoactive Substances'.*

Customs' website also explains the requirements for passengers wishing to import controlled drugs as follows:

If you are arriving into New Zealand carrying a controlled drug either on your person or in your luggage you must ensure:

- *you declare the possession of the controlled drug on your incoming passenger arrival card which is lawfully required, and inspected, by the New Zealand Customs Service*
- *you have a copy of the prescription from your doctor or a letter from your doctor stating that you are being treated with the controlled drug(s), the name of the drug and the applicable dosage*
- *supply of the controlled drug specified in the prescription or letter is lawful in the country that the controlled drug was dispensed*
- *you carry the controlled drug(s) in their original containers*
- *you have a quantity not exceeding one month's supply of the controlled drug.*

Customs will not seize controlled drugs if the passenger can demonstrate that they have satisfied all of these requirements. As shown in the television coverage you have referred to, the passenger in question was referred for a baggage search as a result of an indication by a detector dog, rather than having declared the controlled drugs in his possession – in failing to declare the controlled drugs, the passenger failed to comply with the first requirement detailed above.

With respect to your second question, Customs does not intend to issue an apology to the passenger concerned, or a public correction. Customs believes that its officer acted appropriately given the circumstances of the passenger's importation, and that the officer's interpretation of the exemption in section 8(2)(1)(iii) of the MODA was correct.

If you have any queries in respect of this response, please contact the Correspondence, Reviews, and Ministerial Servicing team via email: OIA@customs.govt.nz.

Yours sincerely



Michael Papesch
Group Manager Policy, Legal and Governance

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