

Law 6/2017

Control of cross-border transportation of cash and bearer negotiable instruments

The Legislative Assembly decrees, pursuant to Article 71, subparagraph 1, of the Basic Law of the Macao Special Administrative Region, the following with the force of law:

CHAPTER I General provisions

Article 1 Object

This law establishes the system for the control of cross-border transportation of cash and bearer negotiable instruments.

Article 2 Definitions

For the purposes of this law:

1. “Bearer negotiable instruments” means any security or monetary instrument, such as travellers cheques and negotiable instruments, that are either in bearer form, endorsed without restrictions, made out to a real or fictitious payee, or in any other form that the title thereto passes upon simple delivery and incomplete instruments, including cheques, promissory notes and money orders, signed but with the payee’s name omitted;
2. “Designated amount” means the monetary value in Patacas or its equivalent value in another currency which, if attained or exceeded,

obliges the traveller carrying it to make a declaration, for customs control purposes;

3. “Dual-channel system” means the simplified customs control system, also known as the red/green channel system, which enables the Customs Service of the Macao Special Administrative Region, hereinafter referred to as the SA, to ensure that customs formalities relating to travellers are accomplished in a more expeditious manner.

CHAPTER II

Declaration system and customs control

Article 3

Declaration duty when entering the Macao Special Administrative Region

1. Any natural person who, when entering the Macao Special Administrative Region, hereinafter referred to as the Macao SAR, carries cash and/or bearer negotiable instruments with a total value equal to or above the designated amount, shall declare that value to the SA officers.
2. At the entry points of the Macao SAR where the dual-channel system is introduced:
 - 1) A traveller passing through the green channel corresponds to a declaration of the traveller that he is not carrying cash and/or bearer negotiable instruments with a total value equal to or above the designated amount;
 - 2) A traveller passing through the red channel corresponds to an intention of making a declaration in order to comply with the declaration duty referred to in the previous paragraph.

Article 4

Duty to declare when leaving the Macao SAR

Any natural person who, when leaving the Macao SAR, carries cash and/or bearer negotiable instruments with a total value equal to or above the designated amount, shall declare that value to the SA officers , if inquired.

Article 5

Individuality of declarations, respective supporting documents and forms

1. The declarations provided for in the preceding articles shall be made on an individual basis by each natural person, and the SA shall, whenever requested, provide the traveller with information necessary for the compliance with the declaration duty.
2. The declaration is made in writing, by completing a form in its authorized format, and subject to registration.
3. At the request of the declarant, a copy of the declaration form with the signature of the officer and the stamp of the SA shall be provided.

Article 6

Powers of supervision

1. For the purposes of supervising the compliance with the obligations laid down in Articles 3 and 4, the SA may:
 - 1) Inquire travellers, on a random basis, sampling basis or based on certain indicators, in order to request them to provide additional information and to present their passports or other identification documents, the travel ticket and invoices or other documents relating to the source or destination of the cash or of the bearer negotiable instruments being transported;
 - 2) Inspect the declared or non-declared baggage of the travellers, examining the respective contents, and carry out body search, verifying the goods and objects carried on their person or in their clothing and belongings.

2. The baggage inspection and body search referred to in subparagraph 2) of the preceding paragraph shall be carried out in customs authority premises and shall respect personal dignity and protect personal privacy, reducing the inconvenience of the traveller to the minimum.
3. Where there are *indicia* that cash or bearer negotiable instruments may be associated with or resulted from illicit activities such as money laundering or terrorist financing, by virtue of, *inter alia*, the amounts involved, volume or unusual nature, the SA shall:
 - 1) Notify immediately the competent criminal police organ;
 - 2) Draw up a police report (*auto de notícia*), containing the total amount and the types of cash or bearer negotiable instruments in question, signed by two SA officers and by the traveller;
 - 3) Put the cash or bearer negotiable instruments in a properly sealed envelope which shall be entrusted to one of the SA officers, whenever necessary, until the arrival of the competent criminal police organ.

CHAPTER III

Personal data

Article 7

Database

1. The SA shall input and handle the information collected under this law in a database.
2. The database aims exclusively at detecting and preventing cross-border transportation of cash and bearer negotiable instruments for money laundering or terrorist financing.
3. The Director-General of the SA shall be responsible for handling the database, in accordance with and for the purposes set forth in Law 8/2005 (Personal Data Protection Law), ensuring the right to information and the

right to access the data by the concerned parties, as well as ensuring the legality of the consultation, transmission or dissemination of information.

4. The information collected under this law shall be kept for a period of five years.

Article 8

Data transmission and dissemination

1. Without prejudice to the provisions related to legal cooperation in criminal matters, the data referred to in the preceding article shall be sent to the Judiciary Police for the purposes of information handling and dissemination within the scope of prevention and criminal investigation, and to the competent entities for the purposes of information handling within the scope of prevention and combating the crimes of money laundering and terrorist financing.
2. Data may be disclosed for the purposes of scientific research or statistical use, provided that the persons concerned cannot be identified.

CHAPTER IV

Administrative infractions

Article 9

Sanctions

1. The provision of incomplete information, the provision of declarations that do not correspond to the truth or the failure of a natural person to complete the required declaration form constitute an administrative infraction punishable by a fine corresponding to 1% to 5% of the value exceeding the designated amount, but never less than MOP1,000 or more than MOP500,000.
2. The fines may be mitigated or may not be applied in case the condemnability of the offender is minor, particularly when the excess value referred to in the previous paragraph is small and the infraction is occasional.

Article 10
Recidivism

1. For the application of this law, recidivism means the practice of the administrative infraction mentioned in the preceding article within one year after the administrative sanction decision has become unchallengeable and provided that between the practice of the administrative infraction and the previous one, five years have not passed.
2. In case of recidivism, the minimum amount of fines shall be increased by one quarter and its maximum value remains unchanged.

Article 11
Competence

The Director-General of the SA shall have the power to apply the fines provided for in paragraph 1 of Article 9 and to decide on their mitigation or non-application in accordance with paragraph 2 of the same article.

CHAPTER V
Final provisions

Article 12
Currency conversion

For the application of this law, the exchange rate to be used shall be that published by the Monetary Authority of Macao and shall relate to the day of the declaration or to the first working day immediately preceding the day of the declaration in case no quotation is available on that day.

Article 13
Applicable supplementary law

1. To the administrative acts provided for in this law, the Administrative Procedure Code and the Contentious Administrative Procedure Code shall be supplementarily applicable.
2. The provisions contained in Decree-law 52/99/M, of 4 October (General regime of administrative infractions and their respective procedure), and, with necessary adaptations, the provisions of the Administrative Procedure Code as well as the general principles of criminal law and of criminal procedure law shall supplementarily and successively apply to the sanctioning procedure related to the administrative infractions provided for in Article 9.

Article 14

Regulation

The orders of the Chief Executive deemed to be necessary for the execution of this law shall be published in the *Official Gazette of the Macao Special Administrative Region*, particularly for the purposes of:

- 1) Implementation and update of the designated amount referred to in subparagraph 2 of Article 2, having as reference the established international standard and the international obligations assumed by the Macao SAR in the fight against money laundering and terrorist financing;
- 2) Approval of the formats of the form referred to in paragraph 2 of Article 5.

Article 15

Amendment to Law 11/2001 (Customs Service of the Macao Special Administrative Region)

Articles 3 and 17 of Law 11/2001 are amended as follows:

“Article 3

Competences

1. [...]:
 - 1) [...];
 - 2) [...];
 - 3) [...];
 - 4) [...];
 - 5) Ensure the control and supervision of cross-border transportation of cash and bearer negotiable instruments.
2. [...].
3. [...].
4. [...].
5. [...].

Article 17
Additional diplomas

1. [Previous text of the article].
2. The Chief Executive may, by means of an order to be published in the *Official Gazette of the Macao Special Administrative Region*, define simplified customs control regimes, in particular under the dual-channel system.”

Article 16
Entry into force

This law shall enter into force on 1 November 2017.

Approved on 31 May 2017.

The President of the Legislative Assembly, *Ho Iat Seng*

Signed on 6 June 2017.

To be published.

The Chief Executive, *Chui Sai On*