

CAYMAN ISLANDS



**TERMINAL CHARGES (VALIDATION)
BILL, 2023**

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A BILL FOR AN ACT TO VALIDATE THE PAYMENT AND COLLECTION OF TERMINAL CHARGES BETWEEN THE PERIOD COMMENCING 1ST OCTOBER, 1997 AND ENDING ON THE COMMENCEMENT OF THIS ACT; TO VALIDATE PENALTIES ASSESSED OR PAID FOR THE NON-PAYMENT OF TERMINAL CHARGES; TO VALIDATE ORDERS OR DETERMINATIONS OF THE COURT RELATING TO TERMINAL CHARGES; TO VALIDATE CERTAIN ACTIONS TAKEN IN THE COLLECTION OF TERMINAL CHARGES; AND FOR INCIDENTAL AND CONNECTED PURPOSES

PUBLISHING DETAILS

Sponsoring Ministry/Portfolio: Ministry of Tourism and Ports



Memorandum of OBJECTS AND REASONS

This Bill seeks to validate the payment and collection of terminal charges between the period commencing 1st October, 1997 and ending on the commencement of this Act. This Bill also validates penalties assessed or paid for the non-payment of terminal charges, orders or determinations of the court relating to terminal charges and certain actions taken in the collection of terminal charges. Further, this Bill provides for incidental and connected purposes.

Clause 1 provides the short title of the legislation.

Clause 2 provides for the validation of the payment and collection of terminal charges.

Clause 2(1) provides for the validation of terminal charges paid to the Director of Civil Aviation collected under the Airport (Security Tax) Regulations (1997 Revision), the Airport (Security Tax) Regulations (1999 Revision) or the Airport (Security Tax) Regulations (2003 Revision) during the period commencing on 1st October, 1997 and ending on 16th August, 2004 as if the terminal charges had been prescribed in regulations made under section 27(d) of the Civil Aviation Authority Act (1997 Revision).

Clause 2(2) provides for the validation of terminal charges paid to and collected by the Cayman Islands Airports Authority during the period commencing on 17th August, 2004 and ending on the commencement of this legislation as if the terminal charges had been prescribed in regulations made under section 41(1)(k) of the Airports Authority Act, 2004 or the Airports Authority Act (2005 Revision).

Clause 3 provides for the validation of the assessment and payment of penalties for the non-payment of terminal charges.

Clause 3(1) provides for the validation of penalties for non-payment of terminal charges assessed by, or paid to, the Director of Civil Aviation under the Airport (Security Tax) Regulations (1997 Revision), the Airport (Security Tax) Regulations (1999 Revision) or the Airport (Security Tax) Regulations (2003 Revision) during the period commencing on 1st October, 1997 and ending on 16th August, 2004 as if the penalties were assessed or paid in accordance with regulations made under section 27(d) of the Civil Aviation Authority Act (1997 Revision).

Clause 3(2) provides for the validation of penalties for non-payment of terminal charges assessed by, or paid to, the Cayman Islands Airports Authority during the period commencing on 17th August, 2004 and ending on the commencement of this legislation as if the penalties were assessed or paid in accordance with regulations made under section 41(1)(k) of the Airports Authority Act, 2004 or the Airports Authority Act (2005 Revision).

Clause 4 provides for the validation of orders or determinations by a court with respect to terminal charges prior to the commencement of this legislation.



Clause 5 provides for the immunity of the Director of Civil Aviation and the Cayman Islands Airports Authority by validating their actions in the collecting of terminal charges and the assessment of penalties for non-payment of terminal charges during specified periods. However, where the actions of the Director of Civil Aviation or the Cayman Islands Airports Authority were done in bad faith, the actions are not taken to have been lawful or valid.



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A BILL FOR AN ACT TO VALIDATE THE PAYMENT AND COLLECTION OF TERMINAL CHARGES BETWEEN THE PERIOD COMMENCING 1ST OCTOBER, 1997 AND ENDING ON THE COMMENCEMENT OF THIS ACT; TO VALIDATE PENALTIES ASSESSED OR PAID FOR THE NON-PAYMENT OF TERMINAL CHARGES; TO VALIDATE ORDERS OR DETERMINATIONS OF THE COURT RELATING TO TERMINAL CHARGES; TO VALIDATE CERTAIN ACTIONS TAKEN IN THE COLLECTION OF TERMINAL CHARGES; AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

Short title

1. This Act may be cited as the Terminal Charges (Validation) Act, 2023.

Validation of payment and collection of terminal charges

2. (1) The terminal charges paid to the Director of Civil Aviation which were purported to have been collected under the authority of regulation 3 of the *Airport (Security Tax) Regulations (1997 Revision)*, the *Airport (Security Tax) Regulations (1999 Revision)* or the *Airport (Security Tax) Regulations (2003 Revision)* during the period commencing on 1st October, 1997 and ending on 16th August, 2004 are —



- (a) validated; and
- (b) taken to have been lawfully paid to, and collected by, the Director of Civil Aviation,

as if the terminal charges had been prescribed in regulations made under section 27(d) of the *Civil Aviation Authority Act (1997 Revision)*.

- (2) The terminal charges paid to, and collected by, the Cayman Islands Airports Authority during the period commencing on 17th August, 2004 and ending on the commencement of this Act are —

- (a) validated; and
- (b) taken to have been lawfully paid to, and collected by, the Cayman Islands Airports Authority,

as if the terminal charges had been prescribed in regulations made under section 41(1)(k) of the *Airports Authority Act, 2004* or the *Airports Authority Act (2005 Revision)*.

Validation of assessment and payment of penalties for non-payment of terminal charges

3. (1) Any penalties for non-payment of terminal charges assessed by, or paid to, the Director of Civil Aviation under the purported authority of regulation 4 of the *Airport (Security Tax) Regulations (1997 Revision)*, the *Airport (Security Tax) Regulations (1999 Revision)* or the *Airport (Security Tax) Regulations (2003 Revision)* during the period commencing on 1st October, 1997 and ending on 16th August, 2004 are —

- (a) validated; and
- (b) taken to have been lawfully assessed by, or paid to, the Director of Civil Aviation,

as if the penalties were assessed or paid in accordance with regulations made under section 27(d) of the *Civil Aviation Authority Act (1997 Revision)*.

- (2) Any penalties for non-payment of terminal charges assessed by, or paid to, the Cayman Islands Airports Authority during the period commencing on 17th August, 2004 and ending on the commencement of this Act are —

- (a) validated; and
- (b) taken to have been lawfully assessed by, or paid to, the Cayman Islands Airports Authority,

as if the penalties were assessed or paid in accordance with regulations made under section 41(1)(k) of the *Airports Authority Act, 2004* or the *Airports Authority Act (2005 Revision)*.



Validation of orders or determinations by a court

4. This Act does not affect any order or determination made by a court with respect to terminal charges prior to the commencement of this Act.

Immunity

5. (1) Notwithstanding any law to the contrary, actions of the Director of Civil Aviation in the collecting of terminal charges and the assessment of penalties for non-payment of terminal charges during the period commencing on 1st October, 1997 and ending on 16th August, 2004 are —
- (a) validated; and
 - (b) taken to have been lawful and valid,
- if the actions would have been lawful and valid had the terminal charges been collected and any penalties assessed in accordance with regulations made under section 27(d) of the *Civil Aviation Authority Act (1997 Revision)*.
- (2) Notwithstanding any law to the contrary, actions of the Cayman Islands Airports Authority in the collecting of terminal charges and the assessment of penalties for non-payment of terminal charges during the period commencing on 17th August, 2004 and ending on the commencement of this Act are —
- (a) validated; and
 - (b) taken to have been lawful and valid,
- if the actions would have been lawful and valid had the terminal charges been collected and the penalties assessed in accordance with regulations made under section 41(1)(k) of the *Airports Authority Act, 2004* or the *Airports Authority Act (2005 Revision)*.

- (3) For the purposes of subsections (1) and (2), an action of the Director of Civil Aviation or the Cayman Islands Airports Authority is not taken to have been lawful or valid if the action was done in bad faith.

Passed by the Parliament the day of , 2023.

Speaker

Clerk of the Parliament

