Customs Act 1901

No. 6, 1901

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This compilation is in 5 volumes

Volume 1:	**Parts I to VI** **sections 1 to 126C**
Volume 2:	Parts IVA to XI sections 126D to 183UAA
Volume 3:	Parts XII to XVA sections 183UA to 269SK
Volume 4:	Parts XVB to XVII sections 269SM to 279 Schedule I
Volume 5:	Endnotes

Each volume has its own contents

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About this compilation

This compilation

This is a compilation of the *Customs Act 1901* that shows the text of the law as amended and in force on 19 September 2026 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au).

Application, saving and transitional provisions

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Presentational changes

The *Legislation Act 2003* provides for First Parliamentary Counsel to make presentational changes to a compilation. Presentational changes are applied to give a more consistent look and feel to legislation published on the Register, and enable the user to more easily navigate those documents.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. Any modifications affecting the law are accessible on the Register.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act relating to the Customs

Part I—Introductory

1 Short title

This Act may be cited as the *Customs Act 1901*.

2 Commencement

This Act shall commence on a day to be fixed by Proclamation.

4 Definitions

(1) In this Act except where otherwise clearly intended:

Adjacent area means an adjacent area in respect of a State, of the Northern Territory or of the Territory of the Ashmore and Cartier Islands, as determined in accordance with section 5 of the Sea Installations Act.

Aircraft includes aeroplanes, seaplanes, airships, balloons or any other means of aerial locomotion.

aircraft identification powers has the same meaning as in the *Maritime Powers Act 2013*.

Airport means an airport appointed under section 15.

Airport owner includes the occupier of an airport.

Airport shop goods means:

(a) goods declared by the regulations to be airport shop goods for the purposes of section 96B; or

(b) goods included in a class of goods declared by the regulations to be a class of airport shop goods for the purposes of that section.

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Answer questions means that the person on whom the obligation of answering questions is cast shall to the best of his or her knowledge, information, and belief truly answer all questions on the subject mentioned that an officer of Customs shall ask.

approved form means a form approved under section 4A.

approved statement means a statement approved under section 4A.

arrival means:

(a) in relation to a ship—the securing of the ship in a port, or

(b) in relation to an aircraft—the aircraft coming to a stop after landing.

assessed GST has the meaning given by the GST Act.

assessed luxury car tax has the meaning given by the Luxury Car Tax Act.

assessed wine tax has the meaning given by the Wine Tax Act.

Australia does not include the external Territories.

Australian aircraft means an aircraft that:

(a) is an Australian aircraft as defined in the *Civil Aviation Act 1988*; or

(b) is not registered under the law of a foreign country and is either wholly owned by, or solely operated by:

(i) one or more residents of Australia; or

(ii) one or more Australian nationals; or

(iii) one or more residents of Australia and one or more Australian nationals.

For the purposes of this definition, ***Australian national*** and ***resident of Australia*** have the same meanings as in the *Shipping Registration Act 1981*.

Australian Border Force Commissioner has the same meaning as in the *Australian Border Force Act 2015*.

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Australian offshore electricity installation means an ***offshore electricity installation*** that is deemed to be part of Australia because of the operation of section 5C.

Australian resources installation means a resources installation that is deemed to be part of Australia because of the operation of section 5C.

Australian seabed means so much of the seabed adjacent to Australia as is:

(a) within the area comprising:
  (i) the areas described in Schedule 1 to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; and
  (ii) the Coral Sea area; and
(b) part of:
  (i) the seabed beneath the coastal area; or
  (ii) the continental shelf of Australia.

Australian sea installation means a sea installation that is deemed to be part of Australia because of the operation of section 5C.

Australian ship means a ship that:

(a) is an Australian ship as defined in the *Shipping Registration Act 1981*; or
(b) is not registered under the law of a foreign country and is either wholly owned by, or solely operated by:
  (i) one or more residents of Australia; or
  (ii) one or more Australian nationals; or
  (iii) one or more residents of Australia and one or more Australian nationals.

For the purposes of this definition, ***Australian national*** and ***resident of Australia*** have the same meanings as in the *Shipping Registration Act 1981*.

Australian waters means:

(a) in relation to a resources installation—waters above the Australian seabed; and

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(b) in relation to a sea installation—waters comprising all of the adjacent areas and the coastal area.

authorised officer, in relation to a provision of this Act, means an officer of Customs authorised under subsection (1AA) to exercise the powers or perform the functions of an authorised officer under that provision.

Note: See also subsection (1A).

authorising officer has the same meaning as in the *Maritime Powers Act 2013*.

Authority to deal means:

(a) in relation to goods the subject of an export declaration—an authority of the kind mentioned in paragraph 114C(1)(a); or

(b) in relation to goods the subject of an import declaration—an authority of the kind referred to in subsection 71C(4); or

(d) in relation to goods the subject of a warehouse declaration—an authority of the kind referred to in subsection 71DJ(4); or

(e) in relation to goods that are Subdivision AA goods within the meaning of section 71AAAA or that are specified low value goods within the meaning of section 71AAAD—an authority under section 71.

Beer means any liquor on which, under the name of beer, any duty of Customs imposed by the Parliament is payable.

Blending means a mixing together of 2 or more substances in order to obtain a commercial product.

border controlled drug has the same meaning as in Part 9.1 of the *Criminal Code*.

border controlled plant has the same meaning as in Part 9.1 of the *Criminal Code*.

border controlled precursor has the same meaning as in Part 9.1 of the *Criminal Code*.

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Brought into physical contact has the same meaning as in the Sea Installations Act.

by authority means by the authority of the officer of Customs doing duty in the matter in relation to which the expression is used.

cargo report means a report under section 64AB that is made in respect of the cargo to be unloaded from, or kept on board, a ship at a port or an aircraft at an airport.

cargo reporter, in relation to a ship or aircraft and in relation to a particular voyage or flight, means:

(a) the operator or charterer of the ship or aircraft; or

(b) a slot charterer in respect of the ship; or

(c) a freight forwarder in respect of the ship or aircraft;

for the voyage or flight.

Carriage includes vehicles and conveyances of all kinds.

Carry, for the purposes of Division 1B of Part XII, has the meaning given by subsection (19).

Charter of the United Nations means the Charter of the United Nations, done at San Francisco on 26 June 1945 [1945] ATS 1.

Note: The text of the Charter of the United Nations is set out in Australian Treaty Series 1945 No. 1. In 2007, the text of a Convention in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

child: without limiting who is a child of a person for the purposes of this Act, each of the following is the child of a person:

(a) an adopted child or exnuptial child of the person;

(b) someone who is a child of the person within the meaning of the *Family Law Act 1975*.

Coastal area means the area comprising the waters of:

(a) the territorial sea of Australia; and

(b) the sea on the landward side of the territorial sea of Australia and not within the limits of a State or an internal Territory.

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Collector has the meaning given by subsection 8(1).

commercial document, in relation to goods, means a document or other record prepared in the ordinary course of business for the purposes of a commercial transaction involving the goods or the carriage of the goods, but does not include a record of any electronic transmission to or from the Department or a Collector:

(a) in respect of an import declaration, or warehouse declaration, relating to the goods or the withdrawal of such an import declaration or warehouse declaration; or

(b) in respect of an export entry, submanifest, or outward manifest, relating to the goods or in respect of the withdrawal of such an entry, submanifest or manifest.

Commissioner of Police means the Commissioner of Police referred to in section 6 of the *Australian Federal Police Act 1979*, and includes an acting Commissioner of Police.

Commonwealth aircraft means an aircraft that is in the service of the Commonwealth and displaying the prescribed ensign or prescribed insignia.

Commonwealth authority means an authority or body established for a purpose of the Commonwealth by or under a law of the Commonwealth (including an Ordinance of the Australian Capital Territory).

Commonwealth offshore area has the same meaning as in the *Offshore Electricity Infrastructure Act 2021*.

Commonwealth ship means a ship that is in the service of the Commonwealth and flying the prescribed ensign.

Comptroller-General of Customs means the person who is the Comptroller-General of Customs in accordance with subsection 11(3) or 14(2) of the *Australian Border Force Act 2015*.

Container means a container within the meaning of the Customs Convention on Containers, 1972 signed in Geneva on 2 December

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1972, as affected by any amendment of the Convention that has come into force.

controlled trial means a controlled trial established by rules made under subsection 179L(1).

controlled trial provision means the following:

(a) Part IV (importation of goods), other than Division 1 of that Part;
(b) Part IVA (depots);
(c) Part V (warehouses);
(d) Part VI (exportation of goods), other than Division 1 of that Part;
(e) Part VIA (electronic communications);
(f) Part XI (agents and customs brokers);
(g) Part XVA (tariff concession orders);
(h) regulations made for the purposes of a provision covered by paragraph (a), (b), (c), (d), (e), (f) or (g).

Coral Sea area has the same meaning as in section 7 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

Country includes territory or other place, but does not include:

(a) an Australian resources installation; or
(b) an Australian sea installation; or
(c) an Australian offshore electricity installation.

Customs Acts means this Act and any instruments (including rules, regulations or by-laws) made under this Act and any other Act, and any instruments (including rules, regulations or by-laws) made under any other Act, relating to customs in force within the Commonwealth or any part of the Commonwealth.

customs broker means a customs broker within the meaning of Part XI.

Customs-related law has the meaning given by section 4B.

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Customs Tariff means an Act imposing duties of customs, and includes such an Act that has not come into operation.

data includes:

(a) information in any form; or

(b) any program (or part of a program).

Days does not include Sundays or holidays.

Defence Minister means the Minister administering section 1 of the *Defence Act 1903*.

depot operator means a person who holds a depot licence as defined by subsection 77F(1).

Deputy Commissioner of Police means a Deputy Commissioner of Police referred to in section 6 of the *Australian Federal Police Act 1979*, and includes:

(a) an acting Deputy Commissioner of Police; and

(b) a member of the Australian Federal Police authorized in writing by the Commissioner of Police to act on behalf of the Australian Federal Police for the purposes of this Act.

designated place means:

(a) a port, airport or wharf that is appointed, and the limits of which are fixed, under section 15; or

(aa) a place to which a ship or aircraft has been brought because of stress of weather or other reasonable cause as mentioned in subsection 58(1), while that ship or aircraft remains at that place; or

(b) a place that is the subject of a permission under subsection 58(2) while the ship or aircraft to which the permission relates remains at that place; or

(c) a boarding station that is appointed under section 15; or

(d) a place from which a ship or aircraft that is the subject of a permission under section 175 is required to depart, between the grant of that permission and the departure of the ship or aircraft; or

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(e) a place to which a ship or aircraft that is the subject of a permission under section 175 is required to return, while that ship or aircraft remains at that place; or

(f) a section 234AA place that is not a place, or a part of a place, referred to in paragraph (a), (aa), (b), (c), (d) or (e).

Detention officer means:

(a) for the purposes of Subdivision A of Division 1B of Part XII—an officer of Customs who is a detention officer because of a declaration under subsection 219ZA(1); or

(b) for the purposes of Subdivision B of that Division—an officer of Customs who is a detention officer because of a declaration under subsection 219ZA(2); or

(c) for the purposes of Subdivision C of that Division—an officer of Customs who is a detention officer because of a declaration under subsection 219ZA(3).

Detention place means:

(a) for the purposes of Subdivision B of Division 1B of Part XII—a place that is a detention place because of subsection 219ZB(1); and

(b) for the purposes of Subdivision C of that Division—a place that is a detention place because of subsection 219ZB(2).

Division 1B Judge means:

(a) a Judge of the Federal Court of Australia, of the Supreme Court of the Australian Capital Territory, or of the Federal Circuit and Family Court of Australia (Division 1), in relation to whom a consent under subsection 219RA(1) and a nomination under subsection 219RA(2) are in force; or

(b) a Judge of the Supreme Court of a State to whom an appropriate arrangement under subsection 11(1) applies; or

(c) a Judge of the Supreme Court of the Northern Territory who is not a Judge referred to in paragraph (a) and to whom an appropriate arrangement under subsection 11(2) applies.

Division 1B Magistrate means:

(a) a Magistrate of the Australian Capital Territory; or

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(b) a Magistrate of a State (other than New South Wales) to whom an appropriate arrangement under subsection 11(1) applies; or

(ba) a Judge of the Local Court of New South Wales to whom an appropriate arrangement under subsection 11(1A) applies; or

(c) a Judge of the Local Court of the Northern Territory to whom an appropriate arrangement under subsection 11(2) applies.

documents include:

(a) any paper or other material on which there is writing; and

(b) any paper or other material on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and

(c) any paper or other material on which a photographic image or any other image is recorded; and

(d) any article or material from which sounds, images or writing is capable of being produced with or without the aid of a computer or of some other device.

Drawback includes bounty or allowance.

Dutiable goods includes all goods in respect of which any duty of Customs is payable.

Duty means duty of Customs.

electronic, in relation to a communication, means the transmission of the communication by computer.

eligible business entity has the meaning given by subparagraph 69(1)(d)(ia).

Environment related activity has the same meaning as in the Sea Installations Act.

excisable goods has the same meaning as in the *Excise Act 1901*.

excise-equivalent goods means goods prescribed by the regulations for the purposes of this definition.

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excise-equivalent warehouse licence has the meaning given by subsection 78(1).

export declaration means an export declaration communicated to the Department by document or electronically as mentioned in section 114.

export entry means an entry of goods for export made as mentioned in section 113AA.

export entry advice means an export entry advice given under subsection 114C(1).

External place means:

(a) a Territory other than an internal Territory; or

(b) a foreign country.

External search, in relation to a person, means a search of the body of, and of anything worn by, the person:

(a) to determine whether the person is carrying any prohibited goods; and

(b) to recover any such goods;

but does not include an internal examination of the person's body.

Finance Minister means the Minister administering the *Public Governance, Performance and Accountability Act 2013*.

foreign aircraft means an aircraft that is not an Australian aircraft.

foreign ship means a ship that is not an Australian ship.

frisk search means:

(a) a search of a person conducted by quickly running the hands over the person's outer garments; and

(b) an examination of anything worn or carried by the person that is conveniently and voluntarily removed by the person.

fuel means goods of a kind that fall within a classification in subheading 2707, 2709 or 2710 of Schedule 3 to the Customs Tariff.

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gaseous fuel means compressed natural gas, liquefied natural gas or liquefied petroleum gas.

Gazette notice means a notice signed by the Minister and published in the *Gazette*.

goods means movable personal property of any kind and, without limiting the generality of the expression, includes documents, vessels and aircraft.

Goods under drawback includes all goods in respect of which any claim for drawback has been made.

Greater Sunrise special regime area has the same meaning as in the *Seas and Submerged Lands Act 1973*.

GST has the meaning given by section 195-1 of the GST Act.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999*.

identity card means an identity card issued under section 4C for the purposes of the provision in which the expression is used.

import declaration means an import declaration communicated to the Department by document or electronically as mentioned in section 71A.

import declaration advice means an import declaration advice given under subsection 71C(1).

import declaration processing charge means import declaration processing charge payable as set out in section 71B.

import duty means duty imposed on goods imported into Australia.

import entry means an entry of goods for home consumption made as mentioned in subsection 68(3A) or an entry of goods for warehousing made as mentioned in subsection 68(3B).

import entry advice means an import declaration advice or a warehouse declaration advice.

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infringement notice has the meaning given by subsection 243X(1).

In need of protection has the meaning given by subsection (20).

Installation means:

(a) a resources installation; or

(b) a sea installation; or

(c) an offshore electricity installation.

internal medical search means an internal search carried out under section 219Z (internal medical search by medical practitioner).

internal non-medical scan means an internal search carried out under section 219SA (internal non-medical scan using prescribed equipment).

internal search of a person:

(a) means an examination (including an internal examination) of the person's body to determine whether the person is internally concealing a substance or thing; and

(b) in the case of an internal medical search—includes the recovery of any substance or thing suspected on reasonable grounds to be so concealed.

Justice means any Justice of the Peace having jurisdiction in the place.

Lawyer means a person who has been admitted in a State or Territory to practise as a barrister, as a solicitor or as a barrister and solicitor and whose right so to practise is not suspended or has not been cancelled.

Lighter includes a craft of every description used for the carriage of goods in a port.

like customable goods means goods that are prescribed by the regulations for the purposes of this definition.

low value cargo has the same meaning as in section 63A.

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luxury car tax has the meaning given by section 27-1 of the Luxury Car Tax Act.

Luxury Car Tax Act means the *A New Tax System (Luxury Car Tax) Act 1999*.

maritime officer has the same meaning as in the *Maritime Powers Act 2013*.

Master means:

(a) in relation to a ship (not being an installation)—the person in charge or command of the ship; and

(b) in relation to an installation—the person in charge of the installation;

but does not include a pilot or Government officer.

Medical practitioner means any person registered or licensed as a medical practitioner under a law of a State or Territory that provides for the registration or licensing of medical practitioners.

Member of the Australian Federal Police includes a special member of the Australian Federal Police.

monitoring powers has the meaning given by section 214AB.

month means one of the 12 months of the calendar year.

Movement application means an application made under section 71E for permission to move goods that are, or will be, subject to customs control.

Narcotic goods means goods that consist of a narcotic substance.

Narcotic-related goods means:

(a) narcotic goods;

(b) moneys within the meaning of section 229A to which that section applies or is believed by the person in possession of the moneys to apply;

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(c) goods within the meaning of section 229A to which that section applies or is believed by the person in possession of the goods to apply; or

(d) ships, aircraft, vehicles or animals that are, or are believed by the person in possession of them to be, forfeited goods by reason of having been used in the unlawful importation, exportation or conveyance of prohibited imports, or prohibited exports, that are narcotic goods.

narcotic substance means a border controlled drug or a border controlled plant.

Natural resources means the mineral and other non-living resources of the seabed and its subsoil.

officer means an officer of Customs.

officer of Customs means:

(a) the Secretary of the Department; or

(b) the Australian Border Force Commissioner (including in his or her capacity as the Comptroller-General of Customs); or

(c) an APS employee in the Department; or

(d) a person authorised under subsection (1B) to exercise all the powers and perform all the functions of an officer of Customs; or

(e) a person who from time to time holds, occupies, or performs the duties of an office or position (whether or not in or for the Commonwealth) specified under subsection (1C), even if the office or position does not come into existence until after it is so specified; or

(f) in relation to a provision of a Customs Act:

(i) a person authorised under subsection (1D) to exercise the powers or perform the functions of an officer of Customs for the purposes of that provision; or

(ii) a person who from time to time holds, occupies, or performs the duties of an office or position (whether or not in or for the Commonwealth) specified under subsection (1E) in relation to that provision, even if the

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office or position does not come into existence until after it is so specified.

offshore electricity installation means infrastructure, a structure or an installation that:

(a) is ***offshore renewable energy infrastructure*** within the meaning of the *Offshore Electricity Infrastructure Act 2021*; or

(b) is ***offshore electricity transmission infrastructure*** within the meaning of that Act.

operator of a ship or aircraft for a particular voyage or flight means:

(a) the shipping line or airline responsible for the operation of the ship or aircraft for the voyage or flight; or

(b) if there is no such shipping line or airline, or no such shipping line or airline that is represented by a person in Australia—the master of the ship or the pilot of the aircraft.

outturn report means a report under section 64ABAA.

overseas offshore electricity installation means an ***offshore electricity installation*** that:

(a) is in the Commonwealth offshore area; and

(b) has been brought into the Commonwealth offshore area from a place outside the outer limits of the area;

but does not include an Australian offshore electricity installation.

Overseas resources installation means an off-shore installation that:

(a) is in Australian waters; and

(b) has been brought into Australian waters from a place outside the outer limits of Australian waters;

but does not include an Australian resources installation.

Overseas sea installation means a sea installation that:

(a) is in an adjacent area or a coastal area; and

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(b) has been brought into the adjacent area or coastal area, as the case may be, from a place outside the outer limits of Australian waters;

but does not include an Australian sea installation.

Owner in respect of goods includes any person (other than an officer of Customs) being or holding himself or herself out to be the owner, importer, exporter, consignee, agent, or person possessed of, or beneficially interested in, or having any control of, or power of disposition over the goods.

owner, in respect of a ship or aircraft, includes a charterer of the ship or aircraft or a slot charterer or freight forwarder responsible for the transportation of goods on the ship or aircraft.

Package includes every means by which goods for carriage may be cased covered enclosed contained or packed.

Pallet means a pallet within the meaning of the European Convention on Customs Treatment of Pallets used in International Transport signed in Geneva on 9 December 1960, as affected by any amendment of the Convention that has come into force.

parent: without limiting who is a parent of a person for the purposes of this Act, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in this subsection.

Pilot means the person in charge or command of any aircraft.

Place includes ship or aircraft.

place outside Australia includes:

(a) the waters in the Greater Sunrise special regime area; or

(b) a resources installation in the Greater Sunrise special regime area;

but does not include:

(c) any other area of waters outside Australia; or

(d) any other installation outside Australia; or

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(e) a ship outside Australia; or

(f) a reef or an uninhabited island outside Australia.

pleasure craft means a ship that from the time of its arrival at its first port of arrival in Australia from a place outside Australia until the time of its departure from its last port of departure in Australia is:

(a) used or intended to be used wholly for recreational activities, sporting activities or both; and

(b) not used or intended to be used for any commercial activity; and

(c) not offered or intended to be offered for sale or disposal.

Port means a port appointed under section 15.

port authority means a body administering the business carried on at a port or ports in a State or Territory.

Produce documents means that the person on whom the obligation to produce documents is cast shall to the best of his or her power produce to the Collector all documents relating to the subject matter mentioned.

Prohibited goods means:

(a) goods whose importation or exportation is prohibited by this Act or any other law of the Commonwealth; or

(b) goods whose importation or exportation is subject to restrictions or conditions under this Act or any other law of the Commonwealth; or

(ba) restricted goods that have been brought into Australia other than in accordance with a permission under subsection 233BABAE(2); or

(c) goods subject to customs control.

Protected object means an object in respect of which a notice under section 203T is in force.

quarter means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December.

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Records offence means:

(a) an offence against subsection 240(1) or (4) of this Act;

(b) an offence against:

(i) section 6 of the *Crimes Act 1914*; or

(iii) section 237 of this Act;

being an offence that relates to an offence of the kind referred to in paragraph (a) of this definition; or

(ba) an ancillary offence (within the meaning of the *Criminal Code*) that relates to an offence of the kind referred to in paragraph (a) of this definition; or

(c) an offence against section 134.1, 134.2 or 135.1 of the *Criminal Code*, being an offence that relates to a tax liability.

Resources installation means:

(a) a resources industry fixed structure within the meaning of subsection (5); or

(b) a resources industry mobile unit within the meaning of subsection (6).

resources installation in the Greater Sunrise special regime area means a resources installation that is attached to the seabed in the Greater Sunrise special regime area.

restricted goods has the meaning given by section 233BABAE.

rules:

(a) in relation to Part XA, means rules made under section 179; and

(b) in relation to Part XB, means rules made under section 179L.

Sea installation has the same meaning as in the Sea Installations Act.

Sea Installations Act means the *Sea Installations Act 1987*.

section 234AA place means a place that is identified under section 234AA as a place of a kind referred to in that section.

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self-assessed clearance declaration means a declaration given to the Department under section 71 in the circumstances mentioned in section 71AAAF.

self-assessed clearance declaration advice means a self-assessed clearance declaration advice given under section 71AAAG.

Ship means any vessel used in navigation, other than air navigation, and includes:

(a) an off-shore industry mobile unit; and

(b) a barge, lighter or any other floating vessel.

small business entity has the meaning given by section 328-110 (other than subsection 328-110(4)) of the *Income Tax Assessment Act 1997*.

Smuggling means any importation, introduction or exportation or attempted importation, introduction or exportation of goods with intent to defraud the revenue.

special reporter has the same meaning as in section 63A.

suspicious substance means a narcotic substance that would, or would be likely to, assist in the proof of the commission by any person of an offence against Division 307 of the *Criminal Code* that is punishable by imprisonment for a period of 7 years or more.

taxable dealing has the meaning given by the Wine Tax Act.

taxable importation has the meaning given by the GST Act.

taxable importation of a luxury car has the meaning given by the Luxury Car Tax Act.

taxation officer means a person employed or engaged under the *Public Service Act 1999* who is:

(a) exercising powers; or

(b) performing functions;

under, pursuant to or in relation to a taxation law (as defined in section 2 of the *Taxation Administration Act 1953*).

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territorial sea, in relation to Australia, means the territorial sea area whose outer limits are from time to time specified in a Proclamation made by the Governor-General for the purposes of section 7 of the *Seas and Submerged Lands Act 1973*.

terrorist act has the same meaning as in the *Crimes Act 1914*.

The United Kingdom includes the Channel Islands and the Isle of Man.

This Act includes all regulations made thereunder.

Timor Sea Maritime Boundaries Treaty means the Treaty between Australia and the Democratic Republic of Timor-Leste Establishing their Maritime Boundaries in the Timor Sea done at New York on 6 March 2018, as in force from time to time.

Note: The Treaty could in 2019 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).

Timor Sea petroleum activities purpose, in relation to goods, means the purpose of the goods being:

(a) taken to a resources installation that is attached to the seabed:
  (i) in the Greater Sunrise special regime area; or
  (ii) in the Greater Sunrise pipeline international offshore area within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or
  (iii) above the Bayu-Undan Gas Field within the meaning of the Timor Sea Maritime Boundaries Treaty; or
  (iv) in the Bayu-Undan pipeline international offshore area within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or
  (v) above the Kitan Oil Field within the meaning of the Timor Sea Maritime Boundaries Treaty; and
(b) used at the resources installation for a purpose related to Petroleum Activities within the meaning of the Timor Sea Maritime Boundaries Treaty.

tobacco products means goods classified to heading 2401, 2402 or 2403 or subheading 2404.11.00 of Schedule 3 to the *Customs*

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Tariff Act 1995 (except goods classified to subheading 2402.90.00 or 2403.99.10 of that Schedule).

transport security identification card means:

(a) an aviation security identification card issued under the *Aviation Transport Security Regulations 2005*; and

(b) a maritime security identification card issued under the *Maritime Transport and Offshore Facilities Security Regulations 2003*.

trusted trader agreement means an agreement entered into under section 176A between the Comptroller-General of Customs and an entity, and includes such an agreement as varied and in force from time to time.

UNCLOS means the United Nations Convention on the Law of the Sea.

Note: The text of the Convention is set out in Australian Treaty Series 1994 No. 31.

unmanufactured raw products means natural or primary products that have not been subjected to an industrial process, other than an ordinary process of primary production, and, without limiting the generality of the foregoing, includes:

(a) animals;

(b) bones, hides, skins and other parts of animals obtained by killing, including such hides and skins that have been sun-dried;

(c) greasy wool;

(d) plants and parts of plants, including raw cotton, bark, fruit, nuts, grain, seeds in their natural state and unwrought logs;

(e) minerals in their natural state and ores; and

(f) crude petroleum.

unmarked plastic explosive has the same meaning as in Subdivision B of Division 72 of the *Criminal Code*.

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UN-sanctioned goods means goods that are prescribed as UN-sanctioned goods under subsection 233BABAA(1).

Visual examination application means an application made under section 71D or 71DK for permission to examine goods.

warehouse means a place at which a person or partnership is authorised by a warehouse licence under section 79 to warehouse goods.

warehouse declaration means a warehouse declaration communicated to the Department by document or electronically under section 71DH.

warehouse declaration advice means a warehouse declaration advice given under section 71DJ.

warehouse declaration processing charge means a warehouse declaration processing charge payable as set out in section 71DI.

Warehoused goods means:

(a) goods received into a warehouse in pursuance of an entry for warehousing or permission granted under section 71E; or

(b) goods blended or packaged in a warehouse in compliance with this Act.

warehoused goods declaration fee means a fee payable under section 71BA for the processing of an import declaration in respect of warehoused goods.

Wharf means a wharf appointed under section 15.

Wharf owner includes any owner or occupier of any wharf.

wine tax has the meaning given by section 33-1 of the Wine Tax Act.

Wine Tax Act means the *A New Tax System (Wine Equalisation Tax) Act 1999*.

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(1AA) The Comptroller-General of Customs may, by writing, authorise an officer of Customs to exercise the powers or perform the functions of an authorised officer under a specified provision of this Act.

(1A) If:

(a) the Comptroller-General of Customs gives an authorisation under subsection (1AA); and

(b) the authorisation is for officers of Customs from time to time holding, occupying or performing the duties of specified offices or positions to exercise the powers or perform the functions of an authorised officer under specified provisions of this Act;

then the authorisation extends to such an office or position that comes into existence after the authorisation is given.

(1B) For the purposes of paragraph (d) of the definition of ***officer of Customs*** in subsection (1), the Comptroller-General of Customs may, by writing, authorise a person to exercise all the powers and perform all the functions of an officer of Customs.

(1C) For the purposes of paragraph (e) of the definition of ***officer of Customs*** in subsection (1), the Comptroller-General of Customs may, by writing, specify an office or position (whether or not in or for the Commonwealth).

(1D) For the purposes of subparagraph (f)(i) of the definition of ***officer of Customs*** in subsection (1), the Comptroller-General of Customs may, by writing, authorise a person to exercise the powers or perform the functions of an officer of Customs for the purposes of a specified provision of a Customs Act.

(1E) For the purposes of subparagraph (f)(ii) of the definition of ***officer of Customs*** in subsection (1), the Comptroller-General of Customs may, by writing, specify an office or position (whether or not in or for the Commonwealth) in relation to a specified provision of a Customs Act.

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(2) A reference in this Act to an officer of police or a police officer shall be read as a reference to a member of the Australian Federal Police or of the Police Force of a State or Territory.

(3) A reference in this Act or in any other Act to a Customs Tariff or Customs Tariff alteration proposed in the Parliament shall be read as a reference to a Customs Tariff or Customs Tariff alteration proposed by a motion moved in the House of Representatives, and a Customs Tariff or Customs Tariff alteration proposed by a motion so moved shall be deemed to have been proposed in the Parliament at the time at which the motion was moved.

(3A) A reference in this Act or any other law of the Commonwealth to the tariff classification under which goods are classified is a reference to the heading in Schedule 3 to the *Customs Tariff Act 1995* or such a heading's subheading:

(a) in whose third column a rate of duty or the quota sign within the meaning of that Act is set out; and

(b) under which the goods are classified for the purposes of that Act.

(3B) For the purposes of this Act and any other law of the Commonwealth:

(a) a heading in Schedule 3 to the *Customs Tariff Act 1995* may be referred to by the word "heading" followed by the digits with which the heading begins;

(b) a subheading of a heading in that Schedule may be referred to by the word "subheading" followed by the digits with which the subheading begins;

(c) an item in Schedule 4 to that Act may be referred to by the word "item" followed by the number, or the number and letter, with which the item begins;

(3C) Unless the contrary intention appears, if the word "Free" is set out in section 16 or 18 of the *Customs Tariff Act 1995*, in the third column of Schedule 3 or 4 to that Act or in the third column of the table in a later Schedule to that Act, that word is taken to be a rate

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of duty for the purposes of this Act or any other law of the Commonwealth.

(3D) Unless the contrary intention appears, any words or words and figures, set out in the third column of Schedule 3 or 4 to the *Customs Tariff Act 1995* or in the third column of the table in a later Schedule to that Act, that enable the duty to be worked out in respect of goods, are taken to be a rate of duty for the purposes of this Act or any other law of the Commonwealth.

(4A) To avoid doubt, if narcotic goods are:

(a) imported into Australia in breach of a prohibition under section 50; or

(b) exported from Australia in breach of a prohibition under section 112;

the goods are imported or exported, as the case may be, in contravention of this Act.

Note: Most offences dealing with the importation and exportation of narcotic goods are located in Part 9.1 of the *Criminal Code*.

(5) A reference in this Act to a resources industry fixed structure shall be read as a reference to a structure (including a pipeline) that:

(a) is not able to move or be moved as an entity from one place to another; and

(b) is used or is to be used off-shore in, or in any operations or activities associated with, or incidental to, exploring or exploiting natural resources.

(6) A reference in this Act to a resources industry mobile unit shall be read as a reference to:

(a) a vessel that is used or is to be used wholly or principally in:

(i) exploring or exploiting natural resources by drilling the seabed or its subsoil with equipment on or forming part of the vessel or by obtaining substantial quantities of material from the seabed or its subsoil with equipment of that kind; or

(ii) operations or activities associated with, or incidental to, activities of the kind referred to in subparagraph (i); or

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(b) a structure (not being a vessel) that:

(i) is able to float or be floated;

(ii) is able to move or be moved as an entity from one place to another; and

(iii) is used or is to be used off-shore wholly or principally in:

(A) exploring or exploiting natural resources by drilling the seabed or its subsoil with equipment on or forming part of the structure or by obtaining substantial quantities of material from the seabed or its subsoil with equipment of that kind; or

(B) operations or activities associated with, or incidental to, activities of the kind referred to in sub-subparagraph (A).

(7) A vessel of a kind referred to in paragraph (6)(a) or a structure of a kind referred to in paragraph (6)(b) shall not be taken not to be a resources industry mobile unit by reason only that the vessel or structure is also used or to be used in, or in any operations or activities associated with, or incidental to, exploring or exploiting resources other than natural resources.

(8) The reference in subparagraph (6)(a)(ii) to a vessel that is used or is to be used wholly or principally in operations or activities associated with, or incidental to, activities of the kind referred to in subparagraph (6)(a)(i) shall be read as not including a reference to a vessel that is used or is to be used wholly or principally in:

(a) transporting persons or goods to or from a resources installation; or

(b) manoeuvring a resources installation, or in operations relating to the attachment of a resources installation to the Australian seabed.

(9) A resources installation shall be taken to be attached to the Australian seabed if:

(a) the installation:

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(i) is in physical contact with, or is brought into physical contact with, a part of the Australian seabed; and

(ii) is used or is to be used, at that part of the Australian seabed, wholly or principally in or in any operations or activities associated with, or incidental to, exploring or exploiting natural resources; or

(b) the installation:

(i) is in physical contact with, or is brought into physical contact with, another resources installation that is taken to be attached to the Australian seabed by virtue of the operation of paragraph (a); and

(ii) is used or is to be used, at the place where it is brought into physical contact with the other installation, wholly or principally in or in any operations or activities associated with, or incidental to, exploring or exploiting natural resources.

(9A) If it is necessary to determine whether a resources installation is attached to the seabed (the ***relevant seabed***):

(a) in the Greater Sunrise special regime area; or

(b) in the Greater Sunrise pipeline international offshore area within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or

(c) above the Bayu-Undan Gas Field within the meaning of the Timor Sea Maritime Boundaries Treaty; or

(d) in the Bayu-Undan pipeline international offshore area within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*; or

(e) above the Kitan Oil Field within the meaning of the Timor Sea Maritime Boundaries Treaty;

subsection (9) has effect as if a reference in that subsection to the Australian seabed were a reference to the relevant seabed.

(10) For the purposes of this Act, the space above or below a coastal area shall be deemed to be in that area.

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(11) Subject to subsection (13), for the purposes of this Act, a sea installation shall be taken to be installed in an adjacent area if:

(a) the installation is in, or is brought into, physical contact with a part of the seabed in the adjacent area; or

(b) the installation is in, or is brought into, physical contact with another sea installation that is to be taken to be installed in the adjacent area because of paragraph (a).

(12) For the purposes of this Act, a sea installation shall be taken to be installed in an adjacent area at a particular time if the whole or part of the installation:

(a) is in that adjacent area at that time; and

(b) has been in a particular locality:

(i) that is circular and has a radius of 20 nautical miles; and

(ii) the whole or part of which is in that adjacent area;

for:

(iii) a continuous period, of at least 30 days, that immediately precedes that time; or

(iv) one or more periods, during the 60 days that immediately precede that time, that in sum amount to at least 40 days.

(13) Where a sea installation, being a ship or an aircraft:

(a) is brought into physical contact with a part of the seabed in an adjacent area; or

(b) is in, or is brought into, physical contact with another sea installation that is to be taken to be installed in an adjacent area;

for less than:

(c) in the case of a ship, or an aircraft, registered under the law of a foreign country—30 days; or

(d) in any other case—5 days;

it shall not be taken to be installed in that adjacent area under subsection (11).

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(14) A sea installation shall not be taken to be installed in an adjacent area for the purposes of this Act unless it is to be taken to be so installed under this section.

(15) Subject to subsection (17), for the purposes of this Act, a sea installation shall be taken to be installed in a coastal area if:

(a) the installation is in, or is brought into, physical contact with a part of the seabed in the coastal area; or

(b) the installation is in, or is brought into, physical contact with another sea installation that is to be taken to be installed in the coastal area because of paragraph (a).

(16) For the purposes of this Act, a sea installation (other than an installation installed in an adjacent area) shall be taken to be installed in a coastal area at a particular time if the whole or part of the installation:

(a) is in that coastal area at that time; and

(b) has been in a particular locality:

(i) that is circular and has a radius of 20 nautical miles; and

(ii) the whole or part of which is in that coastal area;

for:

(iii) a continuous period, of at least 30 days, that immediately precedes that time; or

(iv) one or more periods, during the 60 days that immediately precede that time, that in sum amount to at least 40 days.

(17) Where a sea installation, being a ship or an aircraft:

(a) is brought into physical contact with a part of the seabed in a coastal area; or

(b) is in, or is brought into, physical contact with another sea installation that is to be taken to be installed in a coastal area;

for less than:

(c) in the case of a ship, or an aircraft, registered under the law of a foreign country—30 days; or

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(d) in any other case—5 days;

it shall not be taken to be installed in that adjacent area under subsection (15).

(18) A sea installation shall not be taken to be installed in a coastal area for the purposes of this Act unless it is to be taken to be so installed under this section.

(18A) An offshore electricity installation is taken to be installed in the Commonwealth offshore area if the installation:

(a) rests on the seabed in the Commonwealth offshore area; or

(b) is fixed or connected to the seabed in the Commonwealth offshore area (whether or not the installation is floating); or

(c) is attached or tethered to any other offshore electricity installation (including any other offshore electricity installation covered by this paragraph);

but does not include a vessel that is temporarily moored or anchored to the seabed in the Commonwealth offshore area.

(18B) An offshore electricity installation is not taken to be installed in the Commonwealth offshore area for the purposes of this Act unless it is taken to be so installed under subsection (18A).

(19) For the purposes of Part XII, a person will be taken to carry a thing, including a thing constituting or containing special forfeited goods or prohibited goods, on his or her body only if the thing constitutes, or is in or under, clothing worn by the person.

(19A) In subsection (19), the reference to clothing worn by a person includes a reference to any personal accessory or device that is worn by, or attached to, the person.

(19B) Without limiting Part XII, a person is taken to be unlawfully carrying prohibited goods on his or her body if the person is carrying, on his or her body, restricted goods that have been brought into Australia other than in accordance with a permission under subsection 233BABAE(2).

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(20) For the purposes of Division 1B of Part XII, a person is in need of protection if, and only if, the person is:

(a) under 18 years of age; or

(b) in a mental or physical condition (whether temporary or permanent) that makes the person incapable of managing his or her affairs.

4AAA Members of family

For the purposes of this Act, the members of a person's family are taken to include the following (without limitation):

(a) a de facto partner of the person (within the meaning of the *Acts Interpretation Act 1901*);

(b) someone who is the child of the person, or of whom the person is the child, because of the definition of ***child*** in section 4;

(c) anyone else who would be a member of the person's family if someone mentioned in paragraph (a) or (b) is taken to be a member of the person's family.

4AA Act not to apply so as to exceed Commonwealth power

(1) Unless the contrary intention appears, if a provision of this Act:

(a) would, apart from this section, have an invalid application; but

(b) also has at least one valid application;

it is the Parliament's intention that the provision is not to have the invalid application, but is to have every valid application.

(2) Despite subsection (1), the provision is not to have a particular valid application if:

(a) apart from this section, it is clear, taking into account the provision's context and the purpose or object underlying the Act, that the provision was intended to have that valid application only if every invalid application, or a particular invalid application, of the provision had also been within the Commonwealth's legislative power; or

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(b) the provision's operation in relation to that valid application would be different in a substantial respect from what would have been its operation in relation to that valid application if every invalid application of the provision had been within the Commonwealth's legislative power.

(3) Subsection (2) does not limit the cases where a contrary intention may be taken to appear for the purposes of subsection (1).

(4) This section applies to a provision of this Act, whether enacted before, at or after the commencement of this section.

(5) In this section:

application means an application in relation to:

(a) one or more particular persons, things, matters, places, circumstances or cases; or

(b) one or more classes (however defined or determined) of persons, things, matters, places, circumstances or cases.

invalid application, in relation to a provision, means an application because of which the provision exceeds the Commonwealth's legislative power.

valid application, in relation to a provision, means an application that, if it were the provision's only application, would be within the Commonwealth's legislative power.

4AB Compensation for acquisition of property

(1) If:

(a) this Act would result in an acquisition of property; and

(b) any provision of this Act would not be valid, apart from this section, because a particular person has not been compensated;

the Commonwealth must pay that person:

(c) a reasonable amount of compensation agreed on between the person and the Commonwealth; or

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(d) failing agreement—a reasonable amount of compensation determined by a court of competent jurisdiction.

(2) Any damages or compensation recovered, or other remedy given, in a proceeding begun otherwise than under this section must be taken into account in assessing compensation payable in a proceeding begun under this section and arising out of the same event or transaction.

(3) In this section:

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.

(4) The Consolidated Revenue Fund is appropriated for the purposes of making payments under this section.

4A Approved forms and approved statements

(1) In this Act, a reference to an approved form is a reference to a form that is approved, by instrument in writing, by the Comptroller-General of Customs.

(1A) In this Act, a reference to an approved statement is a reference to a statement that is approved, by instrument in writing, by the Comptroller-General of Customs.

(2) Neither of the following is a legislative instrument:

(a) a form or statement approved as mentioned in this section;

(b) an instrument approving a form or statement as mentioned in this section.

4B What is a Customs-related law

In this Act:

Customs-related law means:

(a) this Act; or

(b) the *Excise Act 1901* and regulations made under that Act; or

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(baa) section 72.13 of the *Criminal Code*; or

(ba) Division 307 of the *Criminal Code*; or

(c) any other Act, or any regulations made under any other Act, in so far as the Act or regulations relate to the importation or exportation of goods, where the importation or exportation is subject to compliance with any condition or restriction or is subject to any tax, duty, levy or charge (however described).

4C Identity cards

(1) The Comptroller-General of Customs must cause an identity card to be issued to an officer who is an authorised officer for the purposes of Division 3A of Part VI or is a monitoring officer for the purposes of Subdivision J of Division 1 of Part XII or is a verification officer for the purposes of Subdivision JA of Division 1 of Part XII.

(2) An identity card:

(a) must be in a form approved by the Comptroller-General of Customs; and

(b) must contain a recent photograph of the authorised officer, monitoring officer or verification officer.

(3) If a person to whom an identity card has been issued ceases to be an authorised officer, monitoring officer or verification officer for the purposes of the provisions of this Act in respect of which the card was issued, the person must return the card to the Comptroller-General of Customs as soon as practicable.

Penalty: One penalty unit.

(4) An offence for a contravention of subsection (3) is an offence of strict liability.

(5) An authorised officer, monitoring officer or verification officer must carry his or her identity card at all times when exercising powers in respect of which the card was issued.

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5 Penalties at foot of sections or subsections

The penalty, pecuniary or other, set out:

(a) at the foot of a section of this Act; or

(b) at the foot of a subsection of a section of this Act, but not at the foot of the section;

indicates that a contravention of the section or of the subsection, as the case may be, whether by act or omission, is an offence against this Act, punishable upon conviction by a penalty not exceeding the penalty so set out.

5AA Application of the *Criminal Code*

(1) Subject to subsection (2), Chapter 2 of the *Criminal Code* applies to an offence against this Act.

(2) For the purposes of a Customs prosecution:

(a) Parts 2.1, 2.2 and 2.3 of the *Criminal Code* apply; and

(b) Parts 2.4, 2.5 and 2.6 of the *Criminal Code* do not apply; and

(c) a reference to criminal responsibility in Chapter 2 of the *Criminal Code* is taken to be a reference to responsibility.

(3) This section is not to be interpreted as affecting in any way the nature of any offence under this Act, the nature of any prosecution or proceeding in relation to any such offence, or the way in which any such offence is prosecuted, heard or otherwise dealt with.

(4) Without limiting the scope of subsection (3), this section is not to be interpreted as affecting in any way the standard or burden of proof for any offence under this Act that is the subject of a Customs prosecution.

(5) In this section:

Customs prosecution has the meaning given in section 244.

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Part II—Administration

5A Attachment of overseas resources installations

(1) A person shall not cause an overseas resources installation to be attached to the Australian seabed.

Penalty: 500 penalty units.

(1A) Subsection (1) does not apply if the person has the permission of the Comptroller-General of Customs given under subsection (2).

(2) The Comptroller-General of Customs may, by notice in writing given to a person who has applied for permission to cause an overseas resources installation to be attached to the Australian seabed, give the person permission, subject to such conditions (if any) as are specified in the notice, to cause that installation to be so attached.

(3) A person who has been given permission under subsection (2) shall not refuse or fail to comply with any condition (including a condition imposed or varied under subsection (4)), to which that permission is subject.

Penalty: 100 penalty units.

(4) Where the Comptroller-General of Customs has, under subsection (2), given a person permission to cause an overseas resources installation to be attached to the Australian seabed, the Comptroller-General of Customs may, at any time before that installation is so attached, by notice in writing served on the person:

(a) revoke the permission;

(b) revoke or vary a condition to which the permission is subject; or

(c) impose new conditions to which the permission is to be subject.

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(5) Without limiting the generality of subsection (2), conditions to which a permission given under that subsection may be subject include:

(a) conditions relating to biosecurity risks (within the meaning of the *Biosecurity Act 2015*); and

(b) conditions requiring the master of an installation to bring the installation to a place specified by the Comptroller-General of Customs for examination for purposes relating to biosecurity risks (within the meaning of the *Biosecurity Act 2015*) before the installation is attached to the Australian seabed.

5B Installation of overseas sea installations

(1) A person shall not cause an overseas sea installation to be installed in an adjacent area or a coastal area.

Penalty: 500 penalty units.

(1A) Subsection (1) does not apply if the person has the permission of the Comptroller-General of Customs given under subsection (2).

(2) The Comptroller-General of Customs may, by notice in writing given to a person who has applied for permission to cause an overseas sea installation to be installed in an adjacent area or a coastal area, give the person permission, subject to such conditions (if any) as are specified in the notice, to cause that installation to be so installed.

(3) A person who has been given permission under subsection (2) shall not refuse or fail to comply with any condition (including a condition imposed or varied under subsection (4)) to which that permission is subject.

Penalty: 100 penalty units.

(4) Where the Comptroller-General of Customs has, under subsection (2), given a person permission to cause an overseas sea installation to be installed in an adjacent area or a coastal area, the Comptroller-General of Customs may, at any time before that

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installation is so installed, by notice in writing served on the person:

(a) revoke the permission;

(b) revoke or vary a condition to which the permission is subject; or

(c) impose new conditions to which the permission is to be subject.

(5) Without limiting the generality of subsection (2), conditions to which a permission given under that subsection in relation to a sea installation may be subject include:

(a) conditions relating to biosecurity risks (within the meaning of the *Biosecurity Act 2015*); and

(b) conditions requiring the owner of the installation, to bring the installation to a place specified by the Comptroller-General of Customs for examination for purposes relating to biosecurity risks (within the meaning of the *Biosecurity Act 2015*) before the installation is installed in an adjacent area or a coastal area.

5BA Installation of overseas offshore electricity installations

(1) A person commits an offence if:

(a) the person causes an overseas offshore electricity installation to be installed; and

(b) the installation is installed in the Commonwealth offshore area.

Penalty: 500 penalty units.

(2) Subsection (1) does not apply if the person has permission in force under subsection (4).

(3) A person may apply to the Comptroller-General of Customs for permission to cause an overseas offshore electricity installation to be installed in the Commonwealth offshore area.

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(4) The Comptroller-General of Customs may, by notice in writing given to the applicant, grant the permission, subject to such conditions (if any) as are specified in the notice.

(5) A person commits an offence if:
  (a) the person has permission in force under subsection (4); and
  (b) the permission is subject to one or more conditions (including a condition imposed or varied under subsection (6)); and
  (c) the person fails to comply with any of those conditions.

  Penalty: 100 penalty units.

(6) If the Comptroller-General of Customs has granted a person permission under subsection (4), the Comptroller-General of Customs may, at any time before the installation is installed, by notice in writing given to the person:
  (a) revoke the permission; or
  (b) revoke or vary a condition to which the permission is subject; or
  (c) impose new conditions to which the permission is to be subject.

(7) Without limiting the generality of subsection (4), conditions to which a permission given under that subsection in relation to an offshore electricity installation may be subject include:
  (a) conditions relating to biosecurity risks (within the meaning of the *Biosecurity Act 2015*); and
  (b) conditions requiring the owner of the installation, to bring the installation to a place specified by the Comptroller-General of Customs for examination for purposes relating to biosecurity risks (within the meaning of the *Biosecurity Act 2015*) before the installation is installed in the Commonwealth offshore area.

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5C Certain installations to be part of Australia

(1) For the purposes of the Customs Acts:

(a) a resources installation that becomes attached to, or that is, at the commencement of this subsection, attached to, the Australian seabed; or

(b) a sea installation that becomes installed in, or that is, at the commencement of this subsection, installed in, an adjacent area or a coastal area; or

(c) an offshore electricity installation that becomes installed in, or that is, at the commencement of this paragraph, installed in, the Commonwealth offshore area;

shall, subject to subsections (2), (3) and (4), be deemed to be part of Australia.

(2) A resources installation that is deemed to be part of Australia because of the operation of this section shall, for the purposes of the Customs Acts, cease to be part of Australia if:

(a) the installation is detached from the Australian seabed, or from another resources installation attached to the Australian seabed, for the purpose of being taken to a place outside the outer limits of Australian waters (whether or not the installation is to be taken to a place in Australia before being taken outside those outer limits); or

(b) after having been detached from the Australian seabed otherwise than for the purpose referred to in paragraph (a), the installation is moved for the purpose of being taken to a place outside the outer limits of Australian waters (whether or not the installation is to be taken to a place in Australia before being taken outside those outer limits).

(3) A sea installation that is deemed to be part of Australia because of the operation of this section shall, for the purposes of the Customs Acts, cease to be part of Australia if:

(a) the installation is detached from its location for the purpose of being taken to a place that is not in an adjacent area or in a coastal area; or

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(b) after having been detached from its location otherwise than for the purpose referred to in paragraph (a), the installation is moved for the purpose of being taken to a place that is not in an adjacent area or in a coastal area.

(4) An offshore electricity installation that is deemed to be part of Australia because of the operation of this section ceases to be part of Australia for the purposes of the Customs Acts if:

(a) the installation is uninstalled from its location for the purpose of being taken to a place outside the outer limits of the Commonwealth offshore area; or

(b) after having been uninstalled from its location otherwise than for the purpose referred to in paragraph (a), the installation is moved for the purpose of being taken to a place outside the outer limits of the Commonwealth offshore area.

6 Act does not extend to external Territories

(1) Subject to subsection (2), this Act does not extend to the external Territories.

(2) Regulations may be made to extend the whole or a part of this Act (with or without modifications) to the Territory of Ashmore and Cartier Islands.

7 General administration of Act

The Comptroller-General of Customs has the general administration of this Act.

8 Collectors, States and Northern Territory

(1) In this Act, a reference to the Collector, or to a Collector, is a reference to:

(a) the Comptroller-General of Customs; or

(b) any officer doing duty in the matter in relation to which the expression is used.

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(2) For the purposes of this Act, a State shall be taken to include:

(a) in the case of a State other than the State of Queensland—that part of Australian waters that is within the area described in Schedule 1 to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* that refers to that State; and

(b) in the case of the State of Queensland—that part of Australian waters that is within:

(i) the area described in that Schedule to that Act that refers to the State of Queensland; or

(ii) the Coral Sea area.

(3) For the purposes of this Act, the Northern Territory shall be taken to include that part of Australian waters that is within:

(a) the area described in Schedule 1 to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* that refers to the Northern Territory; or

(b) the area described in that Schedule to that Act that refers to the Territory of Ashmore and Cartier Islands.

8A Attachment of part of a State or Territory to adjoining State or Territory for administrative purposes

The Governor-General may, by Proclamation, declare that, for the purposes of the administration of this Act, a part of a State or Territory specified in the Proclamation is attached to an adjoining State or Territory so specified, and a part of a State or Territory so specified shall, for the purposes of this Act, be deemed to be part of the adjoining State or Territory.

9 Delegation

(1) The Minister may, by signed instrument, delegate to an officer of Customs all or any of the functions and powers of the Minister under the Customs Acts.

(2) A function or power so delegated, when performed or exercised by the delegate, shall, for the purposes of the Customs Acts, be deemed to have been performed or exercised by the Minister.

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(3) Paragraph 34AB(1)(c) of the *Acts Interpretation Act 1901* does not apply to a delegation under subsection (1).

(4) Subsection (1) does not apply to the Minister's power under subsection 77EA(1), 77ED(1), 77EE(1) or 77EF(2).

11 Arrangements with States and the Northern Territory

(1) The Governor-General may make arrangements with the Governor of a State:

(aa) for the performance by all or any of the persons who from time to time hold office as Judges of the Supreme Court of that State of the functions of a Judge under Subdivision C of Division 1B of Part XII; and

(ab) for the performance by all or any of the persons who from time to time hold office as Judges of the Supreme Court of that State of the functions of a judicial officer under Subdivision DA of Division 1 of Part XII, and under other provisions in so far as they relate to that Subdivision; and

(b) for the performance by all or any of the persons who from time to time hold office as Magistrates in that State of the functions of a Magistrate under Subdivision C of Division 1B of Part XII; and

(c) for the performance by all or any of the persons who are medical practitioners employed by that State of the functions of a medical practitioner under Division 1B of Part XII.

(1A) The Governor-General may make arrangements with the Governor of New South Wales for the performance by all or any of the persons who from time to time hold office as Judges of the Local Court of that State of the functions of a Magistrate under Subdivision C of Division 1B of Part XII.

(2) The Governor-General may make arrangements with the Administrator of the Northern Territory:

(aa) for the performance by all or any of the persons who from time to time hold office as Judges of the Supreme Court of that Territory (and are not also Judges of the Federal Court of

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Australia or of the Supreme Court of the Australian Capital Territory) of the functions of a Judge under Subdivision C of Division 1B of Part XII; and

(ab) for the performance by all or any of the persons who from time to time hold office as Judges of the Supreme Court of that Territory (and are not also Judges of the Federal Court of Australia or of the Supreme Court of the Australian Capital Territory) of the functions of a judicial officer under Subdivision DA of Division 1 of Part XII, and under other provisions in so far as they relate to that Subdivision; and

(b) for the performance by all or any of the persons who from time to time hold office as Judges of the Local Court of that Territory of the functions of a Magistrate under Subdivision C of Division 1B of Part XII; and

(c) for the performance by all or any of the persons who are medical practitioners employed by that Territory of the functions of a medical practitioner under Division 1B of Part XII.

13 Customs seal

(1) There is to be a seal, called the customs seal, the design of which must be determined by the Comptroller-General of Customs.

(2) The design so determined shall include:

(a) the Coat of Arms of the Commonwealth, that is to say, the armorial ensigns and supporters granted to the Commonwealth by Royal Warrant dated 19 September 1912; and

(b) the words “Australia—Comptroller-General of Customs”.

(3) The customs seal must be kept at such place, and in the custody of such person, as the Comptroller-General of Customs directs.

(4) The customs seal must be used as directed by the Comptroller-General of Customs.

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(7) All courts (whether exercising federal jurisdiction or not) and all persons acting judicially shall take judicial notice of the impression of the customs seal on a document or a copy of a document and, in the absence of proof to the contrary, shall presume that impression was made by proper authority.

14 Flag

The ships and aircraft employed in the service of the Australian Border Force (within the meaning of the *Australian Border Force Act 2015*) shall be distinguished from other ships and aircraft by such flag or in such other manner as shall be prescribed.

15 Appointment of ports etc.

(1) The Comptroller-General of Customs may, by notice published in the *Gazette*:

(a) appoint ports and fix the limits of those ports; and

(b) appoint airports and fix the limits of those airports.

(1A) In deciding whether to appoint a port under subsection (1), the Comptroller-General of Customs may take into account:

(a) whether the port or any part of the port is a security regulated port (within the meaning of the *Maritime Transport and Offshore Facilities Security Act 2003*); and

(b) if so—whether the person designated under section 14 of the *Maritime Transport and Offshore Facilities Security Act 2003* as the port operator has a maritime security plan (within the meaning of that Act).

(2) The Comptroller-General of Customs may, by notice published in the *Gazette*:

(a) appoint wharves and fix the limits of those wharves; and

(b) appoint boarding stations for the boarding of ships and aircraft by officers.

(3) A notice under subsection (1) or (2) may provide that a port, airport, wharf or boarding station appointed by the notice is to be a

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port, airport, wharf or boarding station for limited purposes specified in the notice.

19 Accommodation on wharfs and at airports

Every wharf-owner and airport owner shall provide to the satisfaction of the Collector suitable office accommodation on his or her wharf or at his or her airport for the exclusive use of the officer employed at the wharf or airport also such shed accommodation for the protection of goods as the Comptroller-General of Customs may in writing declare to be requisite.

Penalty: 1 penalty unit.

20 Waterfront area control

(1) A person who is in a waterfront area must, at the request of an officer of Customs, produce appropriate identification for the officer's inspection.

(2) If a person refuses or fails to produce appropriate identification to an officer of Customs on request, the officer may, if he or she has reason to believe that the person is a member of the crew of an international ship, request the person to return to the ship forthwith to obtain that identification.

(3) If a member of the crew of an international ship refuses or fails to produce appropriate identification to an officer of Customs, the master of the ship is taken, because of that refusal or failure, to have committed an offence against this Act.

Penalty: 10 penalty units.

(4) In any proceedings for an offence against subsection (3), it is a defence if the master of the ship establishes that he or she has taken all reasonable steps to ensure that crew members:

(a) have appropriate identification; and

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(b) understand their obligation to carry their identification in a waterfront area and to produce it to officers of Customs when requested to do so.

(5) If:

(a) a person refuses or fails to produce appropriate identification to an officer of Customs on request; and

(b) the officer has no reason to believe that the person is a member of an international ship's crew;

the officer may:

(c) if the person can otherwise establish his or her identity to the satisfaction of the officer and explain his or her presence in the waterfront area—issue the person with a temporary identification; or

(d) if the person is unable to establish his or her identity or to explain his or her presence in the waterfront area—request the person to leave the waterfront area forthwith.

(6) For the purposes of this section, a temporary identification issued under subsection (5) has effect, until that document expires, as if it were an appropriate identification.

(7) A person must not refuse or fail to comply with a request under subsection (2) or paragraph (5)(d).

Penalty: 5 penalty units.

(7A) Subsection (7) does not apply if the person has a reasonable excuse.

(8) In this section:

appropriate identification means:

(a) if a person is a member of the crew of an international ship:

(i) current passport; or

(ii) a document issued by the shipping company having control of the ship concerned setting out the full name and nationality of the person and the passport number or other official identification number of the person; or

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(iii) a document issued by, or by an instrumentality of, the Commonwealth, a State or a Territory providing photographic identification of the person and setting out the person's full name, address, and date of birth; and

(b) if the person is not a member of the crew of such a ship—either:

(i) a document issued by the employer of the person providing photographic identification of the employee; or

(ii) a document issued by, or by an instrumentality of, the Commonwealth, a State or a Territory providing photographic identification of the person and setting out the person's full name, address, and date of birth.

international ship means a ship that is currently engaged in making international voyages.

waterfront area means an area:

(a) that is:

(i) a port or wharf that is appointed, and the limits of which are fixed, under section 15; or

(ii) a boarding station that is appointed under section 15; and

(b) that is signposted so as to give persons present in the area a clear indication:

(i) that it is an area under customs control; and

(ii) that they must not enter, or remain in, the area unless they carry appropriate identification; and

(iii) that they may be required to produce appropriate identification and, if they fail to do so, that they may be requested to leave the area.

25 Persons before whom declarations may be made

Declarations under this Act may be made before the Minister, an officer of Customs or a Justice.

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26 Declaration by youths

No person shall knowingly receive a declaration under this Act by any person under the age of eighteen years.

28 Working days and hours etc.

(1) The regulations may prescribe the days (which may include Sundays or holidays) on which, and the hours on those days (which may be different hours on different days) between which, officers are to be available to perform a specified function in every State or Territory, in a specified State or Territory or otherwise than in a specified State or Territory.

(2) If, at the request of a person, a Collector arranges for an officer to be available to perform a function at a place outside the hours prescribed for that function, the person must pay to the Commonwealth an overtime fee.

(3) The overtime fee in relation to the officer is:

(a) $40 per hour or part hour during which the officer performs that function and engages in any related travel, or such other rate as is prescribed; and

(b) any prescribed travel expense (at the rate prescribed) associated with the officer performing that function at that place.

(4) If, at the request of a person, a Collector arranges for an officer to be available to perform a function:

(a) at a place that is not a place at which such a function is normally performed; and

(b) during the hours prescribed for that function;

the person must pay to the Commonwealth a location fee.

(5) The location fee in relation to the officer is:

(a) $37 per hour or part hour during which the officer performs that function and engages in any related travel, or such other rate as is prescribed; and

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(b) any prescribed travel expense (at the rate prescribed) associated with the officer performing that function at that place.

(6) In this section:

related travel means travel to or from the place at which the function referred to in paragraph (3)(a) or (5)(a) is performed if that travel directly relates to the officer performing that function.

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Part III—Customs control examination and securities generally

30 Customs control of goods

(1) Goods shall be subject to customs control as follows:

(a) as to goods to which section 68 applies that are unshipped or that are a ship or aircraft not carried on board a ship or aircraft—from the time of their importation:

(ii) if the goods are not examinable food that has been entered for home consumption or warehousing and are not excise-equivalent goods—until either they are delivered into home consumption in accordance with an authority to deal or in accordance with a permission under section 69, 70 or 162A or they are exported to a place outside Australia, whichever happens first; and

(iii) if the goods are examinable food that has been entered for home consumption—until a food control certificate is delivered to the person who has possession of the food; and

(iv) if the goods are examinable food that has been entered for warehousing and are not excise-equivalent goods—until there is delivered to the person who has possession of the food an imported food inspection advice requiring its treatment, destruction or exportation or, if no such advice is delivered, until the goods are entered for home consumption or the food is exported to a place outside Australia, whichever happens first; and

(v) if the goods (the ***dual goods***) are examinable food that has been entered for warehousing and are excise-equivalent goods—until whichever of the events mentioned in subsection (1A) happens first; and

(vi) if the goods are excise-equivalent goods and are not examinable food—until whichever of the events mentioned in subsection (1B) happens first;

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(aa) as to goods to which section 68 applies that are not goods to which paragraph (a) of this subsection applies—from the time of their importation until they are exported to a place outside Australia;

(ab) as to goods referred to in paragraph 68(1)(e), (f) or (i)—from the time of their importation:

(i) if they are unshipped—until they are delivered into home consumption in accordance with an authority under section 71; or

(ii) if they are not unshipped—until they are exported to a place outside Australia;

(ac) as to goods referred to in paragraph 68(1)(g) or (h)—from the time of their importation:

(i) if they are unshipped—until they are delivered into home consumption; or

(ii) if they are not unshipped—until they are exported to a place outside Australia;

(ad) as to goods referred to in paragraph 68(1)(d)—from the time of their importation until they are delivered into home consumption in accordance with an authority under section 71 or they are exported to a place outside Australia, whichever happens first;

(ae) as to goods referred to in paragraph 68(1)(j)—from the time of their importation until they are exported to a place outside Australia;

(b) as to all goods in respect of which a claim for drawback has been made before exportation of the goods to a place outside Australia—from the time the claim is made until the goods are exported, the claim is withdrawn or the claim is disallowed, whichever happens first;

(c) as to all goods subject to any export duty—from the time when the same are brought to any port or place for exportation until the payment of the duty;

(d) as to all goods for export (including goods delivered for export under section 61AA of the *Excise Act 1901*)—from the time the goods are made or prepared in, or are brought

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into, any prescribed place for export, until their exportation to a place outside Australia, or, in the case of goods delivered for export under section 61AA of the *Excise Act 1901*, their exportation to such a place or their return, in accordance with subsection 114D(2) of this Act, to the Commissioner of Taxation's control under section 61 of the *Excise Act 1901*;

(e) as to goods made or prepared in, or brought into, a prescribed place for export that are no longer for export—from the time the goods are made or prepared in, or brought into, the prescribed place until the goods are moved from the place in accordance with a permission given under section 119AC.

(1A) The events for the purposes of subparagraph (1)(a)(v) are as follows:

(a) the dual goods are destroyed in accordance with an imported food inspection advice delivered to the person who has possession of the goods;

(b) excisable goods are manufactured and the dual goods are used in that manufacture;

(c) the dual goods are delivered into home consumption in accordance with an authority to deal or in accordance with a permission under section 69, 70 or 162A;

(d) the dual goods are exported to a place outside Australia.

(1B) The events for the purposes of subparagraph (1)(a)(vi) are as follows:

(a) excisable goods are manufactured and the excise-equivalent goods are used in that manufacture;

(b) the excise-equivalent goods are delivered into home consumption in accordance with an authority to deal or in accordance with a permission under section 69, 70 or 162A;

(c) the excise-equivalent goods are exported to a place outside Australia.

(2) In this section:

examinable food has the same meaning as in the *Imported Food Control Act 1992*.

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imported food inspection advice has the same meaning as in the *Imported Food Control Act 1992*.

30A Exemptions under Torres Strait Treaty

(1) In this section:

area in the vicinity of the Protected Zone means an area in respect of which a notice is in force under subsection (2).

Australian place means a place in Australia that is in the Protected Zone or in an area in the vicinity of the Protected Zone.

Papua New Guinea place means a place in Papua New Guinea that is in the Protected Zone or in an area in the vicinity of the Protected Zone.

Protected Zone means the zone established under Article 10 of the Torres Strait Treaty, being the area bounded by the line described in Annex 9 to that treaty.

Protected Zone ship means a ship that is owned or operated by a traditional inhabitant.

Torres Strait Treaty means the treaty between Australia and the Independent State of Papua New Guinea that was signed at Sydney on 18 December 1978.

traditional activities has the same meaning as in the Torres Strait Treaty.

traditional inhabitants has the same meaning as in the *Torres Strait Fisheries Act 1984*.

(2) The Comptroller-General of Customs may, by notice published in the *Gazette*, declare an area adjacent to the Protected Zone to be an area in the vicinity of the Protected Zone for the purposes of this section.

(3) The Comptroller-General of Customs may, by notice published in the *Gazette*, exempt, subject to such conditions (if any) as are

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specified in the notice, from so many of the provisions of the Customs Acts as are specified in the notice:

(a) any Protected Zone ship that arrives at an Australian place on a voyage from a Papua New Guinea place or that leaves an Australian place on a voyage to a Papua New Guinea place, being a ship:

(i) on board which there is at least one traditional inhabitant who is undertaking that voyage in connection with the performance of traditional activities in the Protected Zone or in an area in the vicinity of the Protected Zone; and

(ii) no person on board which is a person other than:

(A) a person referred to in subparagraph (i); or

(B) an employee of the Commonwealth, of Queensland or of Papua New Guinea or of an authority of the Commonwealth, of Queensland or of Papua New Guinea who is undertaking that voyage in connection with the performance of his or her duties;

(b) the entry into Australia, or the departure from Australia, of persons on board a ship of the kind referred to in paragraph (a); or

(c) the importation into Australia, or the exportation from Australia, of goods on board a ship of the kind referred to in paragraph (a), being goods that:

(i) are owned by, or are under the control of, a traditional inhabitant who is on board that ship and have been used, are being used or are intended to be used by him or her in connection with the performance of traditional activities in the Protected Zone or in an area in the vicinity of the Protected Zone; or

(ii) are the personal belongings of a person referred to in subparagraph (a)(ii); or

(iii) are stores for the use of the passengers or crew of that ship or for the service of that ship.

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(4) Where:

(a) the master of a ship (not being a ship to which an exemption under subsection (3) applies) or the pilot of an aircraft proposes to take that ship or aircraft, as the case may be, on a voyage or flight, as the case may be, from an Australian place to a Papua New Guinea place or from a Papua New Guinea place to an Australian place; and

(b) that voyage or flight, as the case may be:

(i) will be undertaken by at least one person who is a traditional inhabitant for purposes connected with the performance of traditional activities in the Protected Zone or in an area in the vicinity of the Protected Zone; and

(ii) will not be undertaken by a person other than:

(A) a person referred to in subparagraph (i);

(B) an employee of the Commonwealth, of Queensland or of Papua New Guinea or of an authority of the Commonwealth, of Queensland or of Papua New Guinea who will be undertaking that voyage or flight in connection with the performance of his or her duties; or

(C) the master of the ship or a member of the crew of the ship or the pilot of the aircraft or a member of the crew of the aircraft, as the case may be;

the master of the ship or the pilot of the aircraft, as the case may be, may, by notice in writing given to the Comptroller-General of Customs setting out such information as is prescribed, request the Comptroller-General of Customs to grant an exemption under subsection (5) in relation to the voyage or flight, as the case may be.

(5) The Comptroller-General of Customs may, in his or her discretion, after receiving an application under subsection (4) in relation to a proposed voyage by a ship or a proposed flight by an aircraft, by notice in writing given to the person who made the application, exempt, subject to such conditions (if any) as are specified in the

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notice, from so many of the provisions of the Customs Acts as are specified in the notice:

(a) the entry into Australia, or the departure from Australia, of that ship or aircraft, as the case may be, in the course of that voyage or flight, as the case may be; and

(b) the entry into Australia, or the departure from Australia, of any person on board that ship or aircraft, as the case may be, in the course of that voyage or flight, as the case may be; and

(c) the importation into Australia, or the exportation from Australia, of goods, or goods included in a class of goods specified in the notice, on board that ship during that voyage or on board that aircraft during that flight, as the case may be, being goods that:

(i) are owned by, or are under the control of, a traditional inhabitant who is on board that ship or aircraft, as the case may be, and have been used, are being used or are intended to be used by him or her in connection with the performance of traditional activities in the Protected Zone or in an area in the vicinity of the Protected Zone; or

(ii) are the personal belongings of a person who is on board that ship or aircraft, as the case may be, in the course of that voyage or flight, as the case may be; or

(iii) are stores for the use of the passengers or crew of that ship or aircraft, as the case may be, or for the service of that ship or aircraft, as the case may be.

(6) Where:

(a) under subsection (3) or (5), the arrival at a place in Australia of a ship, an aircraft or a person, or the importation into Australia of goods, is exempt from any provisions of the Customs Acts; and

(b) that ship, aircraft or person arrives at, or those goods are taken to, a place in Australia that is not in the Protected Zone or in an area in the vicinity of the Protected Zone;

the Customs Acts (including the provisions referred to in paragraph (a)) apply in relation to the arrival of that ship, aircraft

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or person at, or the taking of those goods to, the place referred to in paragraph (b) as if that ship, aircraft or person had arrived at the place, or those goods had been taken to that place, as the case may be, from a place outside Australia.

31 Goods on ships and aircraft subject to customs control

All goods on board any ship or aircraft from a place outside Australia are subject to customs control while the ship or aircraft:

(a) is within the limits of any port or airport in Australia; or

(b) is at a place to which the ship or aircraft has been brought because of stress of weather or other reasonable cause as mentioned in subsection 58(1); or

(c) is at a place that is the subject of a permission under subsection 58(2).

33 Persons not to move goods subject to customs control

(1) If:

(a) a person intentionally moves, alters or interferes with goods that are subject to customs control; and

(b) the movement, alteration or interference is not authorised by or under this Act;

the person commits an offence punishable, on conviction, by a penalty not exceeding 500 penalty units.

(2) If:

(a) a person moves, alters or interferes with goods that are subject to customs control; and

(b) the movement, alteration or interference is not authorised by or under this Act;

the person commits an offence punishable, on conviction, by a penalty not exceeding 60 penalty units.

(3) If:

(a) an employee of a person moves, alters or interferes with goods that are subject to customs control; and

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(b) in moving, altering or interfering with the goods the employee is acting on behalf of the person; and

(c) the movement, alteration or interference is not authorised by or under this Act;

the person commits an offence punishable, on conviction, by a penalty not exceeding 60 penalty units.

(4) It is a defence to a prosecution of a person for a contravention of subsection (3) if the person took reasonable precautions, and exercised due diligence, to prevent the employee who is alleged to have moved, altered or interfered with the goods from moving, altering or interfering with them.

(5) If:

(a) a person intentionally directs or permits another person to move, alter or interfere with goods that are subject to customs control; and

(b) the movement, alteration or interference is not authorised by or under this Act;

the person commits an offence punishable, on conviction, by a penalty not exceeding 500 penalty units.

(6) If:

(a) a person directs or permits another person to move, alter or interfere with goods that are subject to customs control; and

(b) the movement, alteration or interference is not authorised by or under this Act;

the person commits an offence punishable, on conviction, by a penalty not exceeding 60 penalty units.

(7) An offence against subsection (2), (3) or (6) is an offence of strict liability.

(8) In this section:

employee, of a body corporate, includes a person who is a director, a member, or a member of the board of management, of the body corporate.

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goods does not include installations.

Note 1: For permission to move goods specified in a cargo report from one place under customs control to another place under customs control, see section 71E.

Note 2: For permission to move, alter or interfere with goods for export, see section 119AA.

Note 3: For permission to move, alter or interfere with goods that are no longer for export, see sections 119AB and 119AC.

33A Resources installations subject to customs control

(1) A person shall not use an Australian resources installation that is subject to customs control in, or in any operations or activities associated with, or incidental to, exploring or exploiting the Australian seabed.

Penalty: 500 penalty units.

(1A) Subsection (1) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(1B) Subsection (1) does not apply if the person has permission in force under subsection (2).

(2) The Comptroller-General of Customs may give permission in writing to a person specified in the permission, subject to such conditions (if any) as are specified in the permission, to engage in specified activities in relation to the use of an Australian resources installation that is subject to customs control.

(3) A person who has been given permission under subsection (2) shall not refuse or fail to comply with any condition (including a condition imposed or varied under subsection (4)) to which that permission is subject.

Penalty: 100 penalty units.

(4) Where the Comptroller-General of Customs has, under subsection (2), given a person permission to engage in any activities in relation to an Australian resources installation, the

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Comptroller-General of Customs may, while that installation remains subject to customs control, by notice in writing served on the person:

(a) suspend or revoke the permission;

(b) revoke or vary a condition to which the permission is subject; or

(c) impose new conditions to which the permission is to be subject.

33B Sea installations subject to customs control

(1) A person shall not use an Australian sea installation that is subject to customs control.

Penalty: 500 penalty units.

(1A) Subsection (1) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(1B) Subsection (1) does not apply if the person has permission in force under subsection (2).

(2) The Comptroller-General of Customs may give permission in writing to a person specified in the permission, subject to such conditions (if any) as are specified in the permission, to engage in specified activities in relation to the use of an Australian sea installation that is subject to customs control.

(3) A person who has been given permission under subsection (2) shall not refuse or fail to comply with any condition (including a condition imposed or varied under subsection (4)) to which that permission is subject.

Penalty: 100 penalty units.

(4) Where the Comptroller-General of Customs has, under subsection (2), given a person permission to engage in any activities in relation to an Australian sea installation, the Comptroller-General of Customs may, while that installation

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remains subject to customs control, by notice in writing served on the person:

(a) suspend or revoke the permission;

(b) revoke or vary a condition to which the permission is subject; or

(c) impose new conditions to which the permission is to be subject.

33BA Offshore electricity installations subject to customs control

(1) A person commits an offence of strict liability if:

(a) the persons uses an Australian offshore electricity installation; and

(b) the Australian offshore electricity installation is subject to customs control.

Penalty: 500 penalty units.

(2) Subsection (1) does not apply if the person has permission in force under subsection (4).

(3) A person may apply to the Comptroller-General of Customs for permission to engage in specified activities in relation to the use of an Australian offshore electricity installation that is subject to customs control.

(4) The Comptroller-General of Customs may, by notice in writing given to the applicant, grant the permission, subject to such conditions (if any) as are specified in the notice.

(5) A person commits an offence if:

(a) the person has permission in force under subsection (4); and

(b) the permission is subject to one or more conditions (including a condition imposed or varied under subsection (6)); and

(c) the person fails to comply with any of those conditions.

Penalty: 100 penalty units.

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(6) If the Comptroller-General of Customs has, under subsection (4), granted a person permission to engage in any activities in relation to an Australian offshore electricity installation, the Comptroller-General of Customs may, while that installation remains subject to customs control, by notice in writing served on the person:

(a) suspend or revoke the permission; or

(b) revoke or vary a condition to which the permission is subject; or

(c) impose new conditions to which the permission is to be subject.

33C Obstructing or interfering with Commonwealth property in a Customs place

(1) A person commits an offence if:

(a) the person intentionally obstructs or interferes with the operation of a thing; and

(b) the thing belongs to the Commonwealth; and

(c) the thing is located in a Customs place.

Penalty: 60 penalty units.

(2) Absolute liability applies to paragraph (1)(b).

Note: For absolute liability, see section 6.2 of the *Criminal Code*.

(3) In this section:

Customs place has the same meaning as in section 183UA.

34 No claim for compensation for loss

The Commonwealth shall not be liable for any loss or damage occasioned to any goods subject to customs control except by the neglect or wilful act of some officer.

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35 Goods imported by post

Goods imported by post shall be subject to customs control equally with goods otherwise imported.

35A Amount payable for failure to keep dutiable goods safely etc.

(1) Where a person who has, or has been entrusted with, the possession, custody or control of dutiable goods which are subject to customs control:

(a) fails to keep those goods safely; or

(b) when so requested by a Collector, does not account for those goods to the satisfaction of a Collector in accordance with section 37;

that person shall, on demand in writing made by a Collector, pay to the Commonwealth an amount equal to the amount of the duty of Customs which would have been payable on those goods if they had been entered for home consumption on the day on which the demand was made.

(1A) Where:

(a) dutiable goods subject to customs control are, in accordance with authority to deal or by authority of a permission given under section 71E, taken from a place for removal to another place;

(b) the goods are not, or part of the goods is not, delivered to that other place; and

(c) when so requested by a Collector, the person who made the entry or to whom the permission was given, as the case may be, does not account for the goods, or for that part of the goods, as the case may be, to the satisfaction of a Collector in accordance with section 37;

the person shall, on demand in writing made by a Collector, pay to the Commonwealth an amount equal to the amount of the duty of Customs which would have been payable on the goods, or on that part of the goods, as the case may be, if they had been entered for home consumption on the day on which the demand was made.

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(1B) Where:

(a) dutiable goods subject to customs control are, by authority of a permission given under section 71E, removed to a place other than a warehouse; and

(b) the person to whom the permission was given fails to keep those goods safely or, when so requested by a Collector, does not account for the goods to the satisfaction of a Collector in accordance with section 37;

the person shall, on demand in writing made by a Collector, pay to the Commonwealth an amount equal to the amount of the duty of Customs which would have been payable on those goods if they had been entered for home consumption on the day on which the demand was made.

(2) An amount payable under subsection (1), (1A) or (1B) shall be a debt due to the Commonwealth and may be sued for and recovered in a court of competent jurisdiction by proceedings in the name of the Collector.

(3) In proceedings under the last preceding subsection, a statement or averment in the complaint, claim or declaration of the Collector is evidence of the matter or matters so stated or averred.

(4) This section does not affect the liability of a person arising under or by virtue of:

(a) any other provision of this Act; or

(b) a security given under this Act.

36 Offences for failure to keep goods safely or failure to account for goods

Offences for failure to keep goods safely

(1) A person commits an offence if:

(a) goods are subject to customs control; and

(b) the person has, or has been entrusted with, the possession, custody or control of the goods; and

(c) the person fails to keep the goods safely.

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Penalty: 500 penalty units.

(2) A person commits an offence if:

(a) goods are subject to customs control; and

(b) the person has, or has been entrusted with, the possession, custody or control of the goods; and

(c) the person fails to keep the goods safely.

Penalty: 60 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

Offences for failure to account for goods

(4) A person commits an offence if:

(a) goods are subject to customs control; and

(b) the person has, or has been entrusted with, the possession, custody or control of the goods; and

(c) the person, when so requested by a Collector, does not account for the goods to the satisfaction of a Collector in accordance with section 37.

Penalty: 500 penalty units.

(5) A person commits an offence if:

(a) goods are subject to customs control; and

(b) the person has an authority to deal with the goods, or is given a permission under section 71E in relation to the goods; and

(c) the goods are taken, in accordance with the authority to deal or by authority of the permission under section 71E, from a place for removal to another place; and

(d) the goods are not, or part of the goods is not, delivered to that other place; and

(e) the person, when so requested by a Collector, does not account for the goods or for that part of the goods (as the case may be) to the satisfaction of a Collector in accordance with section 37.

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Penalty: 500 penalty units.

(6) A person commits an offence if:

(a) goods are subject to customs control; and

(b) the person has, or has been entrusted with, the possession, custody or control of the goods; and

(c) the person, when so requested by a Collector, does not account for the goods to the satisfaction of a Collector in accordance with section 37.

Penalty: 60 penalty units.

(7) A person commits an offence if:

(a) goods are subject to customs control; and

(b) the person has an authority to deal with the goods, or is given a permission under section 71E in relation to the goods; and

(c) the goods are taken, in accordance with the authority to deal or by authority of the permission under section 71E, from a place for removal to another place; and

(d) the goods are not, or part of the goods is not, delivered to that other place; and

(e) the person, when so requested by a Collector, does not account for the goods or for that part of the goods (as the case may be) to the satisfaction of a Collector in accordance with section 37.

Penalty: 60 penalty units.

(8) An offence against subsection (6) or (7) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

Removal of goods by authority of section 71E permission

(9) Without limiting subsection (1), (2), (4) or (6), if goods are removed to a place other than a warehouse by authority of a permission given to a person under section 71E, the person is taken to have, or to have been entrusted with, the possession, custody or

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control of the goods for the purposes of paragraph (1)(b), (2)(b), (4)(b) or (6)(b).

Other liabilities not affected

(10) This section does not affect the liability of a person arising under or by virtue of:
  (a) any other provision of this Act; or
  (b) a security given under this Act.

37 Accounting for goods

A person accounts for goods or a part of goods to the satisfaction of a Collector in accordance with this section if, and only if:
  (a) the Collector sights the goods; or
  (b) if the Collector is unable to sight the goods—the person satisfies the Collector that the goods have been dealt with in accordance with this Act.

42 Right to require security

(1) The Commonwealth shall have the right to require and take securities for compliance with this Act, for compliance with conditions or requirements to which the importation or exportation of goods is subject and generally for the protection of the revenue, and pending the giving of the required security in relation to any goods subject to customs control, an officer of Customs may refuse to deliver the goods or to give any authority to deal with the goods.

(1A) The right of the Commonwealth under subsection (1) to require and take a security includes the right to require and take securities for payment of any penalty that a person may become liable to pay to the Commonwealth under the *Customs Undertakings (Penalties) Act 1981*.

(1B) The right of the Commonwealth under subsection (1) to require and take a security includes the right to require and take securities in respect of any interim duty that may be payable on goods under

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the *Customs Tariff (Anti-Dumping) Act 1975* but no such security shall be required or taken under this Act:

(a) on an application under section 269TB of this Act in respect of the goods to which the application relates before the time at which the Commissioner (within the meaning of Part XVB) has made a preliminary affirmative determination, within the meaning of Part XVB, in respect of those goods; or

(b) on like goods imported into Australia before that time.

(1C) If:

(a) an undertaking is given and accepted under subsection 269TG(4) or 269TJ(3) in respect of goods; and

(b) the undertaking is subsequently breached;

the Commonwealth may require and take securities in respect of any interim duty that may be payable under the *Customs Tariff (Anti-Dumping) Act 1975* on the goods or on like goods imported into Australia.

(1D) The right of the Commonwealth under subsection (1) to require and take a security includes the right to require and take a security in respect of any interim duty that may be payable under the *Customs Tariff (Anti-Dumping) Act 1975* on goods the subject of an application under subsection 269ZE(1) of this Act.

(2) The right of the Commonwealth under subsection (1) to require and take securities includes the right to require and take a security for a purpose or purposes for which security may be taken under that subsection and for a purpose or purposes for which security may be taken under section 16 of the *Excise Act 1901-1957* and the succeeding provisions of this Part apply to and in relation to such a security in the same manner as they apply to and in relation to any other security required and taken under subsection (1).

(3) The rights of the Commonwealth under this section may be exercised by a Collector on behalf of the Commonwealth.

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43 Form of security

A security shall be given in a manner and form approved by a Collector and may, subject to that approval, be by bond, guarantee, cash deposit or any other method, or by two or more different methods.

44 General securities may be given

When security is required for any particular purpose security may by the authority of the Comptroller-General of Customs be accepted to cover all transactions for such time and for such amounts as the Comptroller-General of Customs may approve.

45 Cancellation of securities

(1) All securities may after the expiration of 3 years from the date thereof or from the time specified for the performance of the conditions thereof be cancelled by the Comptroller-General of Customs.

(2) A security taken in respect of any interim duty that may become payable on goods under section 8, 9, 10 or 11 of the *Customs Tariff (Anti-Dumping) Act 1975*, being a security taken before the publication under Part XVB of this Act of a notice declaring that section to apply to those goods, shall be cancelled before the expiration of the prescribed period after the date the security is taken.

(3) In subsection (2), ***prescribed period*** means:

(a) in relation to a security in respect of any interim duty that may be payable on goods under section 8 or 9 of the *Customs Tariff (Anti-Dumping) Act 1975*—a period described in subsection (3A) of this section; or

(b) in any other case—a period of 4 months.

(3A) For the purposes of paragraph (3)(a), the period is:

(a) unless paragraph (b) of this subsection applies:

(i) a period of 4 months; or

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(ii) if an exporter of goods of the kind referred to in paragraph (3)(a) requests a longer period—a period (not exceeding 6 months) that the Commissioner (within the meaning of Part XVB) determines to be appropriate; or

(b) if the security was taken in connection with an investigation under Part XVB and the non-injurious price of goods the subject of the investigation as ascertained, or last ascertained, for the purposes of the investigation is less than the normal value of such goods as so ascertained, or last so ascertained:

(i) a period of 6 months; or

(ii) if an exporter of goods of the kind referred to in paragraph (3)(a) requests a longer period—a period (not exceeding 9 months) that the Commissioner (within the meaning of Part XVB) determines to be appropriate.

(4) Where:

(a) a notice is published under Part XVB of this Act declaring section 8, 9, 10 or 11 of the *Customs Tariff (Anti-Dumping) Act 1975* to apply to goods of a particular kind that may be imported into Australia;

(b) goods of that kind are imported while that notice is in force; and

(c) security is taken after the importation of those goods in relation to the interim duty that may be payable in respect of them;

subsection (2) does not apply in relation to that security.

46 New securities

If the Collector shall not at any time be satisfied with the sufficiency of any security the Collector may require a fresh security and a fresh security shall be given accordingly.

47 Form of security

The form of security in Schedule I hereto shall suffice for all the purposes of a bond or guarantee under this Act and without sealing

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shall bind its subscribers as if sealed and unless otherwise provided therein jointly and severally and for the full amount.

48 Effect of security

(1) Whenever any such security is put in suit by the Collector the production thereof without further proof shall entitle the Collector to judgment for their stated liability against the persons appearing to have executed the same unless the defendants shall prove compliance with the condition or that the security was not executed by them or release or satisfaction.

(2) If it appears to the Court that a non-compliance with a security has occurred, the security shall not be deemed to have been discharged or invalidated, and the subscribers shall not be deemed to have been released or discharged from liability by reason of:

(a) an extension of time or other concession; or

(b) the Commonwealth having consented to, or acquiesced in, a previous non-compliance with the condition; or

(c) the Collector having failed to bring suit against the subscribers upon the occurrence of a previous non-compliance with the condition.

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Part IV—The importation of goods

Division 1A—Preliminary

49 Importation

For the purpose of securing the due importation of goods:

(1) The ship or aircraft may be boarded.

(2) The cargo shall be reported.

(3) The goods shall be entered unshipped and may be examined.

49A Ships and aircraft deemed to be imported

(1) Where:

(a) a ship or an aircraft has entered Australia; and

(b) a Collector, after making such inquiries as he or she thinks appropriate, has reason to believe that the ship or aircraft might have been imported into Australia;

he or she may serve, in accordance with subsection (4), a notice in respect of the ship or aircraft stating that, if the ship or aircraft remains in Australia throughout the period of 30 days commencing on the day on which the notice was served, the ship or aircraft shall be deemed to have been imported into Australia and may be forfeited.

(2) Where a notice under subsection (1) has been served in respect of a ship or an aircraft, a Collector, if he or she considers that, having regard to weather conditions or any other relevant matter, it is reasonable to do so, may extend the period specified in the notice by serving, in accordance with subsection (4), a notice in respect of the ship or aircraft stating that that period has been extended and specifying the period by which it has been extended.

(3) Where a notice under subsection (1) has been served in respect of a ship or an aircraft, a Collector may, before the expiration of the period specified in the notice, or, if that period has been extended

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under subsection (2), that period as extended, revoke that notice by serving, in accordance with subsection (4), a notice in respect of the ship or aircraft stating that the first-mentioned notice is revoked.

(4) A Collector shall serve a notice under subsection (1), (2) or (3) in respect of a ship or an aircraft by causing the notice to be affixed to a prominent part of the ship or aircraft.

(5) Where a Collector serves a notice under subsection (1), (2) or (3) in respect of a ship or an aircraft, he or she shall, as soon as practicable after serving the notice, publish a copy of the notice in:

(a) a newspaper circulating generally in the State or Territory in which the ship or aircraft is situated, or, in the case of a ship or seaplane that is not in a State or Territory, in the State or Territory that is adjacent to the place where the ship or seaplane is situated; and

(b) if that newspaper does not circulate in the locality in which the ship or aircraft is situated—a newspaper (if any) circulating in that locality.

(6) Where a Collector who proposes to serve a notice under subsection (1), (2) or (3) in respect of a ship or aircraft considers that the person (if any) in charge of the ship or aircraft is unlikely to be able to read the English language but is likely to be able to read another language, the Collector shall, when causing the notice to be affixed to the ship or aircraft, cause a translation of the notice into a language that that person is likely to be able to read to be affixed to the ship or aircraft as near as practicable to the notice.

(7) Where:

(a) a Collector has served a notice under subsection (1) in respect of a ship or aircraft;

(b) the Collector has complied with subsections (5) and (6) in relation to the notice;

(c) the notice has not been revoked under subsection (3);

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(d) the ship or aircraft has remained in Australia throughout the period specified in the notice, or, if that period has been extended under subsection (2), that period as extended; and

(e) an entry has not been made in respect of the ship or aircraft during that period or that period as extended, as the case requires;

the ship or aircraft shall, for the purpose of this Act be deemed to have been imported into Australia on the expiration of that period or that period as extended, as the case requires.

(8) A reference in this section to Australia shall be read as including a reference to waters within the limits of any State or internal Territory.

(9) A reference in this section to a ship is not to be read as including a reference to:

(a) an overseas resources installation; or

(b) an overseas sea installation; or

(c) an overseas offshore electricity installation.

49B Installations and goods deemed to be imported

(1) Where:

(a) an overseas resources installation (not being an installation referred to in subsection (2)), becomes attached to the Australian seabed; or

(b) an overseas sea installation (not being an installation referred to in subsection (2)) becomes installed in an adjacent area or in a coastal area; or

(c) an overseas offshore electricity installation (not being an installation referred to in subsection (2)) becomes installed in the Commonwealth offshore area;

the installation and any goods on the installation at the time when it becomes so attached or so installed shall, for the purposes of the Customs Acts, be deemed to have been imported into Australia at the time when the installation becomes so attached or so installed.

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(2) Where:

(a) an overseas resources installation is brought to a place in Australia and is to be taken from that place into Australian waters for the purposes of being attached to the Australian seabed; or

(b) an overseas sea installation is brought to a place in Australia and is to be taken from that place into an adjacent area or into a coastal area for the purposes of being installed in that area; or

(c) an overseas offshore electricity installation is brought to a place in Australia and is to be taken from that place into the Commonwealth offshore area for the purposes of being installed in that area;

the installation and any goods on the installation at the time when it is brought to that place shall, for the purpose of the Customs Acts, be deemed to have been imported into Australia at the time when the installation is brought to that place.

49C Obligations under this Part may be satisfied in accordance with a trusted trader agreement

(1) An entity is released from an obligation that the entity would otherwise be required to satisfy under a provision of this Part (other than Division 1) if the obligation:

(a) is of a kind prescribed by rules for the purposes of Part XA; and

(b) is specified in those rules as an obligation from which an entity may be released; and

(c) is specified in a trusted trader agreement between the Comptroller-General of Customs and the entity.

(2) If:

(a) an obligation must be satisfied under a provision of this Part (other than Division 1); and

(b) the obligation:

(i) is of a kind prescribed by rules for the purposes of Part XA; and

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(ii) is specified in those rules as an obligation that may be satisfied in a way other than required by this Part; and

(iii) is specified in a trusted trader agreement between the Comptroller-General of Customs and an entity;

then, despite the relevant provision, the entity may satisfy the obligation in the way specified in the trusted trader agreement.

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Division 1—Prohibited imports

50 Prohibition of the importation of goods

(1) The Governor-General may, by regulation, prohibit the importation of goods into Australia.

(2) The power conferred by the last preceding subsection may be exercised:

(a) by prohibiting the importation of goods absolutely;

(aa) by prohibiting the importation of goods in specified circumstances;

(b) by prohibiting the importation of goods from a specified place; or

(c) by prohibiting the importation of goods unless specified conditions or restrictions are complied with.

(3) Without limiting the generality of paragraph (2)(c), the regulations:

(a) may provide that the importation of the goods is prohibited unless a licence, permission, consent or approval to import the goods or a class of goods in which the goods are included has been granted as prescribed by the regulations made under this Act or the *Therapeutic Goods Act 1989*; and

(b) in relation to licences or permissions granted as prescribed by regulations made under this Act—may make provision for and in relation to:

(i) the assignment of licences or permissions so granted or of licences or permissions included in a prescribed class of licences or permissions so granted;

(ii) the granting of a licence or permission to import goods subject to compliance with conditions or requirements, either before or after the importation of the goods, by the holder of the licence or permission at the time the goods are imported;

(iii) the surrender of a licence or permission to import goods and, in particular, without limiting the generality of the

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foregoing, the surrender of a licence or permission to import goods in exchange for the granting to the holder of the surrendered licence or permission of another licence or permission or other licences or permissions to import goods; and

(iv) the revocation of a licence or permission that is granted subject to a condition or requirement to be complied with by a person for a failure by the person to comply with the condition or requirement, whether or not the person is charged with an offence against subsection (4) in respect of the failure.

(3A) Without limiting the generality of subparagraph (3)(b)(ii), a condition referred to in that subparagraph may be a condition that, before the expiration of a period specified in the permission or that period as extended with the approval of the Collector, that person, or, if that person is a natural person who dies before the expiration of that period or that period as extended, as the case may be, the legal personal representative of that person, shall export, or cause the exportation of, the goods from Australia.

(3B) Regulations made for the purposes of this section may confer on the Minister the power to make provision in relation to a matter by legislative instrument.

(4) A person commits an offence if:

(a) a licence or permission has been granted, on or after 16 October 1963, under the regulations; and

(b) the licence or permission relates to goods that are not narcotic goods; and

(c) the licence or permission is subject to a condition or requirement to be complied with by the person; and

(d) the person engages in conduct; and

(e) the person's conduct contravenes the condition or requirement.

Penalty: 100 penalty units.

(5) Subsection (4) is an offence of strict liability.

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Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(6) Absolute liability applies to paragraph (4)(a), despite subsection (5).

Note: For ***absolute liability***, see section 6.2 of the *Criminal Code*.

(7) A person commits an offence if:

(a) a licence or permission has been granted, on or after 16 October 1963, under the regulations; and

(b) the licence or permission relates to goods that are narcotic goods; and

(c) the licence or permission is subject to a condition or requirement to be complied with by the person; and

(d) the person engages in conduct; and

(e) the person's conduct contravenes the condition or requirement.

Penalty: Imprisonment for 2 years or 20 penalty units, or both.

(9) Absolute liability applies to paragraph (7)(a).

Note: For ***absolute liability***, see section 6.2 of the *Criminal Code*.

(10) In this section:

engage in conduct means:

(a) do an act; or

(b) omit to perform an act.

51 Prohibited imports

(1) Goods, the importation of which is prohibited under section 50, are prohibited imports.

(2) Notwithstanding the generality of subsection (1), ships, boats and aircraft the importation of which is prohibited under section 50 are prohibited imports if, and only if, they have been imported into Australia.

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51A Certain controlled substances taken to be prohibited imports

(1) This section applies if a substance or plant is a border controlled drug, a border controlled plant or a border controlled precursor because of a determination made under Subdivision C of Division 301 of the *Criminal Code* (which deals with emergency Ministerial determinations of serious drugs and precursors).

Note: ***Border controlled drug***, ***border controlled plant*** and ***border controlled precursor*** have the same meaning as in Part 9.1 of the *Criminal Code* (see subsection 4(1) of this Act). In that Part, those terms include substances or plants that are, under Subdivision C of Division 301 of the *Criminal Code*, taken, for the purposes of the Part, to be border controlled drugs, border controlled plants or border controlled precursors only in relation to particular offences against the Part, or particular elements of those offences.

(2) For the period during which the determination has effect, Schedule 4 to the *Customs (Prohibited Imports) Regulations 1956* has effect as if the substance or plant were described as a drug in that Schedule.

52 Invalidation of licence, permission etc. for false or misleading information

A licence, permission, consent or approval granted in respect of the importation of UN-sanctioned goods is taken never to have been granted if:

(a) an application for the licence, permission, consent or approval was made in an approved form; and

(b) information contained in, or information or a document accompanying, the form:

(i) was false or misleading in a material particular; or

(ii) omitted any matter or thing without which the information or document is misleading in a material particular.

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Division 2—The boarding of ships and aircraft

58 Ships and aircraft to enter ports or airports

(1) The master of a ship or the pilot of any aircraft shall not bring his or her ship or aircraft to a place other than a port or airport unless from stress of weather or other reasonable cause.

Penalty: 500 penalty units.

(1A) Subsection (1) does not apply if the master or pilot has the permission of a Collector given under subsection (2).

(2) A Collector may, by notice in writing given to the master of a ship or the pilot of an aircraft who has applied for permission to bring his or her ship or aircraft to a place other than a port or airport, give the person permission, subject to such conditions (if any) as are specified in the notice, to bring the ship or aircraft to, or to remain at, that place.

(3) A person who has been given permission under subsection (2) shall not refuse or fail to comply with any condition (including a condition imposed or varied under subsection (4)) to which that permission is subject.

Penalty: 100 penalty units.

(4) Where a Collector has, under subsection (2), given a person permission to bring a ship or aircraft to a place other than a port or airport, the Collector may, at any time before that ship or aircraft is brought to that place, by notice in writing served on the person:

(a) revoke the permission;

(b) revoke or vary a condition to which the permission is subject; or

(c) impose new conditions to which the permission is to be subject.

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(5) Conditions to which a permission under subsection (2) may be subject include conditions relating to matters occurring while the ship or aircraft is at the place to which the permission relates.

(6) A reference in this section to a ship or aircraft entering, or being brought to, a place other than a port or airport is to be read as including a reference to the ship or aircraft being brought to a ship that is at:

(a) an overseas resources installation; or

(b) an overseas sea installation; or

(c) an overseas offshore electricity installation.

58A Direct journeys between installations and external places prohibited

(1) For the purposes of this section, installations shall be deemed not to be a part of Australia.

(2) Subject to subsection (6), where a person:

(a) travels from an external place to:

(i) a sea installation installed in an adjacent area or in a coastal area; or

(ii) a resources installation attached to the Australian seabed; or

(iii) an offshore electricity installation installed in the Commonwealth offshore area;

whether or not in the course of a longer journey; and

(b) has not been available for questioning in Australia for the purposes of this Act after leaving the place and before arriving at the installation;

then:

(c) that person;

(d) the owner of the installation; and

(e) the owner and person in charge of a ship or aircraft on which the person travelled from the place to the installation;

each commit an offence against this section.

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(3) Subject to subsection (6), where goods:

(a) are brought from an external place to:

(i) a sea installation installed in an adjacent area or in a coastal area; or

(ii) a resources installation attached to the Australian seabed; or

(iii) an offshore electricity installation installed in the Commonwealth offshore area;

whether or not previously brought to that place from another place; and

(b) have not been available for examination in Australia for the purposes of this Act after leaving the place and before arriving at the installation;

then:

(c) the owner of the goods at the time of their arrival at the installation;

(d) the owner of the installation; and

(e) the owner and person in charge of a ship or aircraft on which the goods were transported from the place to the installation;

each commit an offence against this section.

(4) Subject to subsection (6), where a person:

(a) travels from:

(i) a sea installation installed in an adjacent area or in a coastal area; or

(ii) a resources installation attached to the Australian seabed; or

(iii) an offshore electricity installation installed in the Commonwealth offshore area;

to an external place, whether or not in the course of a longer journey; and

(b) has not been available for questioning in Australia for the purposes of this Act after leaving the installation and before arriving in the place;

then:

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(c) that person;
(d) the owner of the installation; and
(e) the owner and person in charge of a ship or aircraft on which the person travelled from the installation to the place;

each commit an offence against this section.

(5) Subject to subsection (6), where goods:
(a) are sent from:
(i) a sea installation installed in an adjacent area or in a coastal area; or
(ii) a resources installation attached to the Australian seabed; or
(iii) an offshore electricity installation installed in the Commonwealth offshore area;

to an external place, whether or not the goods are sent on from that place; and
(b) have not been available for examination in Australia for the purposes of this Act after leaving the installation and before arriving in the place;

then:
(c) the person who sent the goods;
(d) the owner of the installation; and
(e) the owner and person in charge of a ship or aircraft on which the goods were transported from the installation to the place;

each commit an offence against this section.

(5A) Subsections (2), (3), (4) and (5) are offences of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(6) It is a defence to a charge of an offence against this section if it is established that the journey because of which the offence would have been committed:
(a) was necessary to secure the safety of, or appeared to be the only way of averting a threat to, human life;

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(b) was necessary to secure, or appeared to be the only way of averting a threat to, the safety of a ship at sea, of an aircraft in flight or of an installation; or

(c) was authorised in writing, by the Comptroller-General of Customs, and was carried out in accordance with the conditions (if any) specified in that authorisation.

(7) Subsection (6) shall not be taken to limit by implication any defence that would, but for the subsection, be available to a person charged with an offence against this section.

(8) For the purposes of this section:

(a) a person shall not be taken to travel from or to an external place or an installation because only of having been in an aircraft flying over, or on a landing place in, the place or installation; and

(b) goods shall not be taken to have been brought from, or sent to, an external place or an installation because only of being in an aircraft flying over, or on a landing place in, the place or installation.

Penalty: 100 penalty units.

58B Direct journeys between certain resources installations and external places prohibited

(1) In this section:

external place does not include Timor-Leste.

(2) Subject to subsection (6), where a person travels from an external place to a resources installation in the Greater Sunrise special regime area (whether or not in the course of a longer journey) without entering either Australia or Timor-Leste:

(a) that person; and

(b) the owner of the installation; and

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(c) the owner and person in charge of the ship or aircraft on which the person arrives at the installation;

each commit an offence against this section.

(3) Subject to subsection (6), where goods are taken from an external place to a resources installation in the Greater Sunrise special regime area (whether or not previously brought to that place from another place) without being taken into either Australia or Timor-Leste:

(a) the owner of the goods at the time of their arrival at the installation; and

(b) the owner of the installation; and

(c) the owner and person in charge of the ship or aircraft on which the goods arrive at the installation;

each commit an offence against this section.

(4) Subject to subsection (6), where a person travels from a resources installation in the Greater Sunrise special regime area to an external place (whether or not in the course of a longer journey) without entering either Australia or Timor-Leste:

(a) that person; and

(b) the owner of the installation; and

(c) the owner and person in charge of the ship or aircraft on which the person left the installation;

each commit an offence against this section.

(5) Subject to subsection (6), where goods are sent from a resources installation in the Greater Sunrise special regime area to an external place (whether or not the goods are sent on from that place) without being taken into Australia or Timor-Leste:

(a) the person who sends the goods; and

(b) the owner of the installation; and

(c) the owner and person in charge of the ship or aircraft on which the goods leave the installation;

each commit an offence against this section.

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(5A) Subsections (2), (3), (4) and (5) are offences of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(6) It is a defence to a prosecution for an offence against this section that the journey because of which the offence would have been committed:

(a) was necessary to secure the safety of, or appeared to be the only way of averting a threat to, human life; or

(b) was necessary to secure, or appeared to be the only way of averting a threat to, the safety of a ship at sea, of an aircraft in flight or of a resources installation; or

(c) was authorised in writing by the Comptroller-General of Customs and was carried out in accordance with the conditions (if any) specified in the authorisation.

(7) Subsection (6) is not to be taken to limit by implication any defence that would, apart from that subsection, be available to a person charged with an offence against this section.

(8) For the purposes of this section:

(a) a person is not to be taken to travel from or to an external place or an installation only because the person is in an aircraft flying over, or on a landing place in or on, the place or installation; and

(b) goods are not to be taken to have been brought from, or sent to, an external place or an installation only because the goods were in an aircraft that flew over, or was on a landing place in or on, the place or installation.

(9) A person who commits an offence against this section is punishable, on conviction, by a fine not exceeding 100 penalty units.

60 Boarding stations

(1) The master of every ship from a place outside Australia bound to or calling at any port shall bring his or her ship to for boarding at a

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boarding station appointed for that port and shall permit his or her ship to be boarded.

Penalty: 100 penalty units.

(2) The pilot of an aircraft from a place outside Australia arriving in Australia shall not suffer the aircraft to land at any other airport until the aircraft has first landed:

(a) at such airport for which a boarding station is appointed as is nearest to the place at which the aircraft entered Australia; or

(b) at such other airport for which a boarding station is appointed as has been approved by the Comptroller-General of Customs, in writing, as an airport at which that aircraft, or a class of aircraft in which that aircraft is included, may land on arriving in Australia from a place outside Australia.

Penalty: 100 penalty units.

(3) The pilot of an aircraft engaged on an air service or flight between Australia and a place outside Australia:

(a) shall not suffer the aircraft to land at an airport for which a boarding station is not appointed; and

(b) shall, as soon as practicable after the aircraft lands at an airport, bring the aircraft for boarding to a boarding station appointed for that airport and shall permit the aircraft to be boarded.

Penalty: 100 penalty units.

(3A) Subsections (1), (2) and (3) are offences of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(4) It is a defence to a prosecution for an offence against a provision of subsection (2) or (3) if the person charged proves that he or she was prevented from complying with the provision by stress of weather or other reasonable cause.

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61 Facility for boarding

(1) A person commits an offence if:

(a) the person is:

(i) the master of a ship who permits the ship to be boarded; or

(ii) the pilot of an aircraft who permits the aircraft to be boarded; or

(iii) the master of a resources installation; or

(iv) the owner of a sea installation; or

(v) the owner of an offshore electricity installation; and

(b) the person does not, by all reasonable means, facilitate the boarding of the ship, aircraft or installation by a person who is authorised under this Act to board the ship, aircraft or installation.

Penalty: 60 penalty units.

(2) Subsection (1) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

61A Owner or operator of port etc. to facilitate boarding

(1) An officer of Customs may request an owner or operator of a port or of a port facility to facilitate, by any reasonable means, the boarding of a ship that is in the port or port facility by any person who is authorised under this Act to board the ship.

(2) The owner or operator commits an offence if the owner or operator fails to comply with the request.

Penalty: 30 penalty units.

(3) In this section:

port facility means an area of land or water, or land and water, (including any buildings, installations or equipment in or on the area) used either wholly or partly in connection with the loading, unloading, docking or mooring of ships.

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62 Ships to come quickly to place of unlading

(1) When a ship has been brought to at a boarding station and boarded by an officer, the master of the ship shall, subject to any direction given under section 275A, bring the ship to the proper place of mooring or to the proper wharf appointed under subsection 15(2), without touching at any other place, as quickly as it is practicable for him or her lawfully to do so.

Penalty: 60 penalty units.

(2) Subsection (1) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

63 Ship or aircraft not to be moved without authority

(1) No ship or aircraft after arrival at the proper place of mooring, at the proper wharf appointed under subsection 15(2) or at an airport appointed under subsection 15(1) shall be removed therefrom before the discharge of the cargo intended to be discharged at the port or airport.

Penalty: 60 penalty units.

(2) Subsection (1) does not apply if the removal is by authority or by direction of the harbour or aerial authority.

(3) Subsection (1) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

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Division 3—The report of the cargo

Subdivision A—General reporting requirements

63A Definitions

In this Division:

abbreviated cargo report means an electronic cargo report, in relation to low value cargo of a particular kind, made by a special reporter in relation to cargo of that kind in accordance with the requirements of section 64AB.

applicant means an applicant under Subdivision C for registration, or for renewal of registration, as a special reporter in relation to low value cargo of a particular kind.

application means an application under Subdivision C for registration, or for renewal of registration, as a special reporter in relation to low value cargo of a particular kind.

cargo, in relation to a ship or aircraft, includes any mail carried on the ship or aircraft.

dedicated computer facilities, in relation to a person who is seeking to be registered, or is or has been registered, as a special reporter in relation to low value cargo of a particular kind, means computer facilities of that person that meet the requirements of Subdivision C relating to the making of abbreviated cargo reports in relation to cargo of that kind, and the storage of electronic information concerning individual consignments covered by those reports.

house agreement, in relation to a particular mail-order house and to a particular registered user proposing to handle consignments from that house, means a written agreement between that house and that user that includes provisions:

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(a) setting out the arrangements made by the user with the house for the shipment of low value goods consigned by that house and handled by that user; and

(b) providing that all such consignments from that house that are to be handled by that user will be consolidated at a single place of export outside Australia designated or determined in accordance with the agreement; and

(c) providing that the house will transmit electronically to the user full particulars of each such consignment for which an order has been placed including details of the consignment's transportation to Australia.

low value cargo means:

(a) cargo consigned from a particular mail-order house; or

(c) cargo comprising other goods of a kind prescribed by the regulations;

being cargo in relation to each single consignment of which section 68 does not apply because of paragraph 68(1)(f).

mail, in relation to a ship or aircraft, means:

(a) any goods consigned through the Post Office that are carried on the ship or aircraft; and

(b) any other correspondence carried on the ship or aircraft that is not consigned as cargo and that is not accompanied personal or household effects of a passenger or member of the crew.

Note: Correspondence covered by paragraph (b) would include, for example, an airline's inter-office correspondence that is carried on one of the airline's aircraft and that is not consigned as cargo.

mail-order house means a commercial establishment carrying on business outside Australia that sells goods solely in response to orders placed with it either by mail or electronic means.

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notified premises, in relation to a person who is, or has been, a special reporter in relation to low value cargo of a particular kind, means:

(a) the premises or all premises indicated in the application, in accordance with subsection 67EC(3), as places in Australia at which are located:
  (i) dedicated computer facilities for the storage of information relating to cargo of that kind; or
  (ii) documents relating to such information; and

(b) if a special reporter notifies the Comptroller-General of Customs under subsection 67EF(2) that, with effect from a particular day, the premises at which all or any of those facilities or documents will be located is to be changed to another place in Australia—with effect from that day, the premises at which all of those facilities and documents will be located.

re-mail item, in relation to a ship or aircraft, means an item of cargo carried on the ship or aircraft, in respect of which all of the following apply:

(a) the item is packaged in an addressed envelope, of paper or other material, whose length plus width does not exceed 80 cm;

(b) the item consists only of paper;

(c) the item and packaging weigh no more than one kilogram;

(d) the item either has no commercial value or is a publication in respect of which the following apply:
  (i) the publication is sent from overseas to the addressee as a subscriber to the publication;
  (ii) the subscription is made by a direct dealing with the consignor by either the addressee or another person arranging a gift subscription for the addressee;
  (iii) the value of the publication does not exceed $250 (or such other amount as is prescribed for the purposes of subparagraph 68(1)(f)(iii));

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(e) the item is not mail;

(f) the item is not, or does not contain, goods covered by paragraph (a) or (b) of the definition of ***prohibited goods*** in subsection 4(1);

(g) there is no individual document of carriage for the item;

(h) the item was consigned on the ship or aircraft by the consignor, with other items that are covered by paragraphs (a) to (g) of this definition, to different consignees.

re-mail reporter means a person or partnership that is registered under Subdivision E as a re-mail reporter.

special reporter means a person who is registered under Subdivision C as a special reporter in respect of low value cargo of a particular kind.

64 Impending arrival report

(1) This section applies to a ship or aircraft in respect of a voyage or flight to Australia from a place outside Australia.

(2) If the ship or aircraft is due to arrive at a port or airport in Australia (whether the first port or airport or any subsequent port or airport on the same voyage or flight), the operator must report to the Department, in accordance with this section, the impending arrival of the ship or aircraft.

(3) Subject to subsection (4), the report of the impending arrival of the ship or aircraft may be made by document or electronically.

(4) If the operator is required to report to the Department under section 64AAB, or to make a cargo report, in respect of the voyage or flight, the report of the impending arrival of the ship or aircraft must be made electronically.

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(5) A report of the impending arrival of a ship (other than a pleasure craft) must be made:

(a) not earlier than 10 days before the time stated in the report to be the estimated time of arrival of the ship; and

(b) not later than:

(i) the start of the prescribed period before its estimated time of arrival; or

(ii) if the journey is of a kind described in regulations made for the purposes of this subparagraph—the start of the shorter period specified in those regulations before its estimated time of arrival.

(5A) A report of the impending arrival of a pleasure craft must be made:

(a) not earlier than the prescribed number of days before the time stated in the report to be the estimated time of arrival of the pleasure craft; and

(b) not later than:

(i) the start of the prescribed period before its estimated time of arrival; or

(ii) if the journey is of a kind described in regulations made for the purposes of this subparagraph—the start of the shorter period specified in those regulations before its estimated time of arrival.

(6) Regulations made for the purposes of paragraph (5)(b) or (5A)(b) may prescribe matters of a transitional nature (including prescribing any saving or application provisions) arising out of the making of regulations for those purposes.

(7) A report of the impending arrival of an aircraft must be made:

(a) not earlier than 10 days before the time stated in the report to be the estimated time of arrival of the aircraft; and

(b) not later than the prescribed period before that time.

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(8) For the purposes of paragraph (7)(b), the ***prescribed period*** before the estimated time of arrival of an aircraft is:

(a) if the flight from the last airport is likely to take not less than 3 hours—3 hours or such other period as is prescribed by the regulations; or

(b) if the flight from the last airport is likely to take less than 3 hours:

(i) one hour or such other period as is prescribed by the regulations; or

(ii) if the flight is of a kind described in regulations made for the purposes of this subparagraph—such shorter period as is specified in those regulations.

(9) A documentary report must:

(a) be in writing; and

(b) be in an approved form; and

(c) be communicated to the Department by sending or giving it to an officer doing duty in relation to the reporting of ships or aircraft at the port or airport at which the ship or aircraft is expected to arrive; and

(d) contain such information as is required by the form; and

(e) be signed in a manner specified in the form.

(10) An electronic report must communicate such information as is set out in an approved statement.

(11) The Comptroller-General of Customs may approve different forms for documentary reports, and different statements for electronic reports, to be made under subsections (9) and (10) in different circumstances, by different kinds of operators of ships or aircraft or in respect of different kinds of ships or aircraft.

(12) An operator of a ship or aircraft who intentionally contravenes this section commits an offence punishable, on conviction, by a penalty not exceeding 120 penalty units.

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(13) An operator of a ship or aircraft who contravenes this section commits an offence punishable, on conviction, by a penalty not exceeding 60 penalty units.

(14) An offence against subsection (13) is an offence of strict liability.

64AA Arrival report

(1) This section applies to a ship or aircraft in respect of a voyage or flight to Australia from a place outside Australia.

(2) When the ship or aircraft has arrived at a port or airport in Australia (whether the first port or airport or any subsequent port or airport on the same voyage or flight), the operator must report to the Department, in accordance with this section, particulars of the arrival of the ship or aircraft and the time of arrival.

(3) Subject to subsection (3A), the report must be made:

(a) in the case of a ship—before:

(i) the end of 24 hours (disregarding any period that occurs on a Saturday, Sunday or holiday) after the ship's arrival; or

(ii) the issue of a Certificate of Clearance in respect of the ship and the port;

whichever first happens; or

(b) in the case of an aircraft—before:

(i) the end of 3 hours after the aircraft's arrival; or

(ii) the issue of a Certificate of Clearance in respect of the aircraft and the airport;

whichever first happens.

(3A) The Comptroller-General of Customs may, by legislative instrument, determine that reports for specified ships, or specified aircraft, in specified circumstances must be made before a specified time or before the occurrence of a specified event. Such reports must be made in accordance with the instrument.

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(4) Subject to subsection (5), a report mentioned in subsection (3) or (3A) may be made by document or electronically.

(5) If the operator is required to report to the Department under section 64AAB, or to make a cargo report, in respect of the voyage or flight, a report mentioned in subsection (3) or (3A) must be made electronically.

(6) A documentary report must:
  (a) be in writing; and
  (b) be in an approved form; and
  (c) be communicated to the Department by sending or giving it to an officer doing duty in relation to the reporting of ships or aircraft at the port or airport of arrival; and
  (d) contain such information as is required by the form; and
  (e) be signed in a manner specified in the form.

(7) An electronic report must communicate such information as is set out in an approved statement.

(8) The Comptroller-General of Customs may approve different forms for documentary reports, and different statements for electronic reports, to be made under subsections (6) and (7) in different circumstances, by different kinds of operators of ships or aircraft or in respect of different kinds of ships or aircraft.

(9) An operator of a ship or aircraft who intentionally contravenes this section commits an offence punishable, on conviction, by a penalty not exceeding 120 penalty units.

(10) An operator of a ship or aircraft who contravenes this section commits an offence punishable, on conviction, by a penalty not exceeding 60 penalty units.

(11) An offence against subsection (10) is an offence of strict liability.

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64AAA Report of stores and prohibited goods

(1) This section applies to a ship or aircraft in respect of a voyage or flight to Australia from a place outside Australia.

(2) When the ship or aircraft has arrived at a port or airport in Australia (whether the first port or airport or any subsequent port or airport on the same voyage or flight), the operator must report to the Department, in accordance with this section, particulars of the ship's stores or aircraft's stores and of any prohibited goods contained in those stores at the time of arrival.

(3) Subject to subsection (3A), the report must be made:

(a) in the case of a ship—before:

(i) the end of 24 hours (disregarding any period that occurs on a Saturday, Sunday or holiday) after the ship's arrival; or

(ii) the issue of a Certificate of Clearance in respect of the ship and the port;

whichever first happens; or

(b) in the case of an aircraft—before:

(i) the end of 3 hours after the aircraft's arrival; or

(ii) the issue of a Certificate of Clearance in respect of the aircraft and the airport;

whichever first happens.

(3A) The Comptroller-General of Customs may, by legislative instrument, determine that reports for specified ships, or specified aircraft, in specified circumstances must be made before a specified time or before the occurrence of a specified event. Such reports must be made in accordance with the instrument.

(4) A report mentioned in subsection (3) or (3A) may be made by document or electronically.

(5) A documentary report must:

(a) be in writing; and

(b) be in an approved form; and

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(c) be communicated to the Department by sending or giving it to an officer doing duty in relation to the reporting of ships or aircraft at the port or airport of arrival; and

(d) contain such information as is required by the form; and

(e) be signed in a manner specified in the form.

(6) An electronic report must communicate such information as is set out in an approved statement.

(7) The Comptroller-General of Customs may approve different forms for documentary reports, and different statements for electronic reports, to be made under subsections (5) and (6) in different circumstances, by different kinds of operators of ships or aircraft or in respect of different kinds of ships or aircraft.

(8) An operator of a ship or aircraft who intentionally contravenes this section commits an offence punishable, on conviction, by a penalty not exceeding 120 penalty units.

(11) In this section:

aircraft's stores and ***ship's stores*** have the meanings given by section 130C.

64AAB Notifying Department of particulars of cargo reporters

(1) This section applies to a ship or aircraft in respect of a voyage or flight to Australia from a place outside Australia.

(2) A cargo reporter who has entered into an agreement or arrangement with another cargo reporter under which cargo for whose carriage the other cargo reporter is responsible is to be carried on the ship or aircraft during the voyage or flight must report to the Department, in accordance with this section, particulars of the other cargo reporter.

(3) A report must be made electronically and must communicate such information as is set out in an approved statement.

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(4) A report must be made before the latest time by which a cargo report may be made.

(5) The Comptroller-General of Customs may approve different statements for reports to be made under this section in different circumstances or by different kinds of cargo reporters.

(6) A cargo reporter who intentionally contravenes this section commits an offence punishable, on conviction, by a penalty not exceeding 120 penalty units.

(7) A cargo reporter who contravenes this section commits an offence punishable, on conviction, by a penalty not exceeding 60 penalty units.

(8) An offence against subsection (7) is an offence of strict liability.

(9) A cargo reporter who is required to make a report under this section is not liable to be prosecuted for, and cannot be served with an infringement notice under Division 5 of Part XIII for, an offence against this section if:

(a) the cargo reporter made a report, but contravened subsection (4) of this section; and

(b) the time (the ***actual time of arrival***) at which the ship or aircraft in question arrived at the first port or airport in Australia since it last departed from a port or airport outside Australia was later than the estimated time of arrival referred to in subsection 64AB(8); and

(c) the cargo reporter would not have contravened subsection (4) of this section if the estimated time of arrival of the ship or aircraft had been its actual time of arrival.

64AAC Report to Department of persons engaged to unload cargo

(1) This section applies to a ship or aircraft in respect of a voyage or flight to Australia from a place outside Australia.

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(2) The operator must report to the Department, in accordance with this section, particulars of:

(a) in the case of a ship—the stevedore with whom the operator has entered into a contract for the unloading of the cargo from the ship at a place in Australia; or

(b) in the case of an aircraft—the depot operator who will first receive the cargo after it has been unloaded from the aircraft at a place in Australia.

(3) A report must be made electronically and must communicate such information as is set out in an approved statement.

(4) A report must be made during the period within which a report under section 64 of the impending arrival of the ship or aircraft is required to be made.

(5) The Comptroller-General of Customs may approve different statements for electronic reports to be made under this section in different circumstances, by different kinds of operators of ships or aircraft or in respect of different kinds of ships or aircraft.

(6) An operator of a ship or aircraft who contravenes this section commits an offence punishable, on conviction, by a penalty not exceeding 60 penalty units.

(7) An offence against subsection (6) is an offence of strict liability.

64AB Cargo reports

(1) This section applies to a ship or aircraft in respect of a voyage or flight to Australia from a place outside Australia.

(2) If the ship or aircraft is due to arrive at its first port or airport in Australia since it last departed from a port or airport outside Australia, each cargo reporter must report to the Department, in accordance with this section, particulars of all goods:

(a) that the cargo reporter has arranged to be carried on the ship or aircraft on the voyage or flight; and

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(b) that are intended to be unloaded from the ship or aircraft at a port or airport in Australia (whether the first port or airport or any subsequent port or airport on the same voyage or flight); and

(c) that are not:

(i) accompanied personal or household effects of a passenger or member of the crew; or

(ii) ship's stores or aircraft's stores.

(2A) If the ship or aircraft is due to arrive at its first port, or airport, in Australia since it last called at a port, or departed from an airport, outside Australia, each cargo reporter must report to the Department, in accordance with this section, particulars of all goods that the cargo reporter has arranged to be carried on the ship or aircraft and that are intended to be kept on board the ship or aircraft for shipment on to a place outside Australia, other than:

(a) goods that are accompanied personal or household effects of a passenger or member of the crew; or

(b) ship's stores or aircraft's stores.

(4) A cargo report must be an electronic report.

(4B) An electronic cargo report must communicate such information as is set out in an approved statement.

(5) If the information required by an approved statement to be communicated electronically refers to particulars of the consignor or consignee of goods:

(a) in the case of a report under subsection (2)—the reference in the statement to the consignor of goods is a reference to a supplier of goods who is located outside Australia and:

(i) initiates the sending of goods to a person in Australia; or

(ii) complies with a request from a person in Australia to send goods to the person; and

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(aa) in the case of a report under subsection (2A)—the reference in the statement to the consignor of goods is a reference to a supplier of goods who is located outside Australia and:

(i) initiates the sending of goods to a person in a place outside Australia; or

(ii) complies with a request from a person in a place outside Australia to send goods to the person; and

(b) in any case—the reference in the statement to the consignee of goods is a reference to the person who is the ultimate recipient of goods that have been sent from outside Australia, whether or not the person ordered or paid for the goods.

(6) The Comptroller-General of Customs may approve different statements for the cargo reports to be made in different circumstances or by different kinds of cargo reporters.

(7) The statement approved for a report by a special reporter in relation to low value cargo of a particular kind must not require the special reporter to include information relating to cargo of that kind at a level of specificity below the level of a submaster air waybill or an ocean bill of lading, as the case requires.

(7A) The statement approved for a report by a re-mail reporter in relation to re-mail items must not require the reporter to include information relating to re-mail items at a level of specificity below the level of a submaster air waybill or an ocean bill of lading, as the case requires.

Note: This means that a re-mail reporter using the approved statement does not have to give information about individual re-mail items.

(7B) However, a re-mail reporter must not use that approved statement for a re-mail item for which the reporter has information below that level of specificity.

Note: A re-mail reporter who does not use the approved statement for re-mail items must provide information about individual re-mail items in a cargo report.

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(8) A cargo report is to be made not later than:

(a) if the cargo is carried on a ship:

(i) the start of the prescribed period; or

(ii) if the journey from the last port is of a kind described in regulations made for the purposes of this subparagraph—the start of the shorter period that is specified in those regulations;

before the estimated time of arrival of the ship at the first port in Australia since it last departed from a port outside Australia; or

(b) if the cargo is carried on an aircraft:

(i) 2 hours or such other period as is prescribed by the regulations; or

(ii) if the flight from the last airport is of a kind described in regulations made for the purposes of this subparagraph—such shorter period as is specified in those regulations;

before the estimated time of arrival specified in the report under section 64 of the impending arrival of the aircraft at the first airport in Australia since it last departed from an airport outside Australia.

(8A) Regulations made for the purposes of paragraph (8)(a) may prescribe matters of a transitional nature (including prescribing any saving or application provisions) arising out of the making of regulations for those purposes.

(9) A cargo reporter who intentionally contravenes this section commits an offence punishable, on conviction, by a penalty not exceeding 120 penalty units.

(10) A cargo reporter who contravenes this section commits an offence punishable, on conviction, by a penalty not exceeding 60 penalty units.

(11) An offence against subsection (10) is an offence of strict liability.

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(14A) A cargo reporter who is required to make a cargo report in respect of particular goods is not liable to be prosecuted for, and cannot be given an infringement notice for, an offence against this section if:

(a) the cargo reporter made a cargo report, but contravened subsection (8) because the report was not made before the start of a certain period; and

(b) the time (the ***actual time of arrival***) at which the ship or aircraft in question arrived at the first port or airport in Australia since it last departed from a port or airport outside Australia was later than the estimated time of arrival referred to in subsection (8); and

(c) the cargo reporter would not have contravened subsection (8) if the estimated time of arrival of the ship or aircraft had been its actual time of arrival.

(15) Nothing in this section affects the operation of Subdivision C.

(16) In this section:

aircraft's stores and ***ship's stores*** have the meanings given by section 130C.

64ABAA Outturn reports

(1) When cargo is unloaded from an aircraft at an airport, the depot operator whose particulars have been communicated to the Department by the operator of the aircraft under section 64AAC must communicate electronically to the Department an outturn report in respect of the cargo.

(2) When a container is unloaded from a ship at a port, the stevedore whose particulars have been communicated to the Department by the operator of the ship under section 64AAC must communicate electronically to the Department an outturn report in respect of the container.

(3) When cargo that is not in a container is unloaded from a ship, the stevedore whose particulars have been communicated to the Department by the operator of the ship under section 64AAC must

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communicate electronically to the Department an outturn report in respect of the cargo.

(4) When cargo unloaded from an aircraft or ship has been moved, under a permission given under section 71E, to a Customs place other than a warehouse, the person in charge of the Customs place must communicate electronically to the Department an outturn report in respect of the cargo.

(5) An outturn report must:

(a) if it is made under subsection (1), (3) or (4):

(i) specify any goods included in the cargo report that have not been unloaded or, if there are no such goods, contain a statement to that effect; and

(ii) specify any goods not included in the cargo report that have been unloaded or, if there are no such goods, contain a statement to that effect; and

(b) if it is made under subsection (2)—set out a list of the containers that have been unloaded; and

(c) in any case:

(i) be in accordance with an approved statement; and

(ii) state any times required by section 64ABAB; and

(iii) be made within the period or at the time required by that section.

(6) The Comptroller-General of Customs may approve different statements for the outturn reports to be made by stevedores, depot operators, or persons in charge of Customs places.

(7) An officer may disclose a cargo report to a stevedore, a depot operator or a person in charge of a Customs place (other than a warehouse) for the purpose of enabling the stevedore, operator or person to communicate to the Department an outturn report in respect of the cargo.

(8) A person who intentionally contravenes this section commits an offence punishable, on conviction, by a penalty not exceeding 120 penalty units.

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(9) A person who contravenes this section commits an offence punishable, on conviction, by a penalty not exceeding 60 penalty units.

(10) An offence against subsection (9) is an offence of strict liability.

(11) In this section:

Customs place has the meaning given by subsection 183UA(1).

64ABAB When outturn report is to be communicated to Department

(1) In the case of cargo unloaded from an aircraft at an airport and received into a depot, the depot operator must communicate the outturn report to the Department within 24 hours, or such other period as is prescribed by the regulations, after the time of arrival of the aircraft as stated in the report under section 64AA.

(2) Subsections (2A), (2B), (2C), (2D) and (2E) of this section apply to outturn reports a stevedore must communicate under subsection 64ABAA(2) because of the unloading of one or more containers from a ship at a port.

(2A) The stevedore must communicate a report at the end of each period:

(a) that starts at a time described in subsection (2B); and

(b) that is 3 hours long; and

(c) during which a container is unloaded.

(2B) A period starts:

(a) at the time the first container is unloaded; or

(b) immediately after the end of the most recent period covered by subsection (2A); or

(c) at the first time a container is unloaded after the end of the most recent period covered by subsection (2A), if a container has not been unloaded in the 3 hours starting at the end of the most recent period covered by that subsection.

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(2C) The first report must state the time the first container is unloaded.

(2D) The last report must state the time when the unloading of the containers was completed.

(2E) If the stevedore communicates a report that:

(a) covers the unloading of a container that, because of a decision not to unload any more containers that was made after the communication, completes the unloading of the containers; and

(b) does not state the time when the unloading of the containers was completed;

the stevedore must communicate another report that states that the unloading of the containers has been completed. The stevedore must do so within 3 hours of the decision being made.

(2F) If the regulations prescribe a period other than 3 hours, subsections (2A), (2B) and (2E) have effect as if they referred to the period prescribed instead of 3 hours.

(3) In the case of cargo (not in containers) unloaded from a ship at a wharf, the stevedore must communicate the outturn report to the Department within 5 days, or such other period as is prescribed by the regulations, after the day on which the unloading of the cargo from the ship was completed. The outturn report must state the time when the unloading of the cargo was completed.

(4) In the case of cargo unloaded from a ship or aircraft and moved, under a permission given under section 71E, to a Customs place (as defined in subsection 183UA(1)) other than a warehouse, the person in charge of the Customs place must communicate the outturn report to the Department:

(a) if the cargo is in a container:

(i) if the container is not unpacked at that place—within 24 hours (or such longer period as is prescribed by the regulations) after the person in charge of that place recorded the receipt of the container at that place; or

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(ii) if the container is unpacked at that place—within 24 hours, or such other period as is prescribed by the regulations, after it was unpacked; or

(b) if the cargo is not in a container—not later than:

(i) the day after the day on which the person in charge of that place recorded a receipt of the cargo at that place; or

(ii) if a later time is prescribed by the regulations—that later time.

If the cargo is in a container that is unpacked at the Customs place, the outturn report must state the time when the unpacking of the cargo was completed.

64ABAC Explanation of shortlanded or surplus cargo

(1) If an outturn report specifies:

(a) any goods included in the cargo report that have not been unloaded; or

(b) any goods not included in the cargo report that have been unloaded;

the officer may require the cargo reporter who made the cargo report in relation to the goods to explain why the goods were not unloaded or were not included in the cargo report, as the case may be.

(2) If a cargo reporter in respect of whom a requirement is made under subsection (1) fails to comply with the requirement, the cargo reporter commits a offence punishable, on conviction, by a penalty not exceeding 60 penalty units.

64ACA Passenger reports

Obligation to report on passengers

(1) The operator of a ship or aircraft that is due to arrive, from a place outside Australia, at a port or airport in Australia (whether it is the first or any subsequent port or airport of the voyage or flight) must

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report to the Department on each passenger who will be on board the ship or aircraft at the time of its arrival at the port or airport.

Note 1: This obligation must be complied with even if the information concerned is personal information (as defined in the *Privacy Act 1988*).

Note 2: See also section 64ACC, which deals with what happens if information has already been reported under the *Migration Act 1958*.

Note 3: Section 64ACD contains an offence for failure to comply with this subsection.

How report is to be given—certain operators to use an approved electronic system

(2) If one of the following paragraphs applies, the operator must give the report by the electronic system approved for the operator for the purposes of this subsection:

(a) the ship is on a voyage for transporting persons:

(i) that is provided for a fee payable by those using it; and

(ii) the operator of which is prescribed by the regulations;

and the Comptroller-General of Customs has, in writing, approved an electronic system for the operator for the purposes of this subsection;

(b) the aircraft is on a flight that is provided as part of an airline service:

(i) that is provided for a fee payable by those using it; and

(ii) that is provided in accordance with fixed schedules to or from fixed terminals over specific routes; and

(iii) that is available to the general public on a regular basis;

and the Comptroller-General of Customs has, in writing, approved an electronic system for the operator for the purposes of this subsection.

Note 1: An approval, and a variation or revocation of an approval, is a legislative instrument: see subsection (10).

Note 2: An approval can be varied or revoked under subsection 33(3) of the *Acts Interpretation Act 1901*.

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(3) However, if the approved electronic system is not working, then the operator must give the report as if subsection (4) applied.

How report to is be given—other operators

(4) The operator of any other ship or aircraft may give the report by document or electronically.

(5) If the report relates to a ship, it must be given not later than:
  (a) the start of the prescribed period before its estimated time of arrival; or
  (b) if the journey is of a kind described in regulations made for the purposes of this paragraph—the start of the shorter period before its estimated time of arrival that is specified in those regulations.

(5A) Regulations made for the purposes of subsection (5) may prescribe matters of a transitional nature (including prescribing any saving or application provisions) arising out of the making of regulations for those purposes.

Deadline for giving report—aircraft

(6) If the report relates to an aircraft, it must be given not later than:
  (a) if the flight from the last airport outside Australia is likely to take not less than 3 hours—3 hours; or
  (b) if the flight from the last airport outside Australia is likely to take less than 3 hours—one hour;

before the time stated in the report made under section 64 to be the estimated time of arrival of the aircraft.

Other requirements for documentary reports

(7) If the report is given by document, it must:
  (a) be in writing; and
  (b) be in an approved form; and
  (c) contain such information as is required by the form; and
  (d) be signed in a manner specified in the form; and

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(e) be communicated to the Department by sending or giving it to an officer doing duty in relation to the reporting of ships or aircraft at the port or airport at which the ship or aircraft is expected to arrive.

Other requirements for electronic reports

(8) If the report is given electronically (whether or not by an electronic system approved for the purposes of subsection (2)), it must communicate such information as is set out in an approved statement.

Different forms and statements for different circumstances etc.

(9) The Comptroller-General of Customs may approve different forms for documentary reports, and different statements for electronic reports, to be made under subsections (7) and (8) in different circumstances, by different kinds of operators of ships or aircraft or in respect of different kinds of ships or aircraft.

Legislative instruments

(10) An approval of an electronic system for the purposes of subsection (2), or a variation or revocation of such an approval, is a legislative instrument.

Purpose for which information obtained

(12) Information obtained by the Department under this section is taken to be obtained by the Department for the purposes of the administration of this Act, the *Migration Act 1958*, and any other law of the Commonwealth prescribed by regulations for the purposes of this subsection.

64ACB Crew reports

Obligation to report on crew

(1) The operator of a ship or aircraft that is due to arrive, from a place outside Australia, at a port or airport in Australia (whether it is the

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first or any subsequent port or airport of the voyage or flight) must, in accordance with this section, report to the Department on each member of the crew who will be on board the ship or aircraft at the time of its arrival at the port or airport.

Note 1: This obligation must be complied with even if the information concerned is personal information (as defined in the *Privacy Act 1988*).

Note 2: See also section 64ACC, which deals with what happens if information has already been reported under the *Migration Act 1958*.

Note 3: Section 64ACD contains an offence for failure to comply with this subsection.

How report is to be given

(2) The operator may give the report by document or electronically.

Deadline for giving report

(3) The report must be made during the period within which a report under section 64 of the impending arrival of the ship or aircraft is required to be made.

(4) However, a report in respect of an aircraft must not be made before the date of departure of the aircraft from the last airport outside Australia.

Other requirements for documentary reports

(5) If the report is given by document, it must:
  (a) be in writing; and
  (b) be in an approved form; and
  (c) contain such information as is required by the form; and
  (d) be signed in a manner specified in the form; and
  (e) be communicated to the Department by sending or giving it to an officer doing duty in relation to the reporting of ships or aircraft at the port or airport at which the ship or aircraft is expected to arrive.

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Other requirements for electronic reports

(6) If the report is given electronically, it must communicate such information as is set out in an approved statement.

Different forms and statements for different circumstances etc.

(7) The Comptroller-General of Customs may approve different forms for documentary reports, and different statements for electronic reports, to be made under subsections (5) and (6) in different circumstances, by different kinds of operators of ships or aircraft or in respect of different kinds of ships or aircraft.

Purpose for which information obtained

(9) Information obtained by the Department under this section is taken to be obtained by the Department for the purposes of the administration of this Act, the *Migration Act 1958*, and any other law of the Commonwealth prescribed by regulations for the purposes of this subsection.

64ACC Information does not have to be reported if it has already been reported under the *Migration Act 1958*

(1) If:

(a) both:

(i) section 64ACA or 64ACB of this Act; and

(ii) section 245L of the *Migration Act 1958*;

require the same piece of information in relation to a particular passenger or member of the crew on a particular voyage or flight to be reported; and

(b) the operator has reported that piece of information in relation to that passenger or member of the crew in accordance with that section of the *Migration Act 1958*;

the operator is then taken not to be required by section 64ACA or 64ACB of this Act (as the case requires) to report the same piece of information in relation to those passengers or crew.

Note: This may mean that no report at all is required under this Act.

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(2) However, subsection (1) only applies if the report under the *Migration Act 1958* relates to the arrival of the ship or aircraft at the same port or airport for which this Act requires a report.

Note: So, for example, if a report under the *Migration Act 1958* is given for a ship's or aircraft's arrival in an external Territory that is not part of Australia for the purposes of this Act, subsection (1) does not apply and a report under this Act is required.

64ACD Offence for failure to comply

(1) An operator of a ship or aircraft who intentionally contravenes section 64ACA or 64ACB commits an offence punishable, on conviction, by a penalty not exceeding 120 penalty units.

(2) An operator of a ship or aircraft who contravenes section 64ACA or 64ACB commits an offence punishable, on conviction, by a penalty not exceeding 60 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(4) An operator of an aircraft or ship commits a separate offence under subsection (1) or (2) in relation to each passenger or member of the crew in relation to whom the operator contravenes section 64ACA or 64ACB.

64ACE Communication of reports

(1) For the purposes of this Act, a documentary report that is sent or given to the Department in accordance with section 64, 64AA, 64AAA, 64ACA or 64ACB may be sent or given in any prescribed manner and, when so sent or given, is taken to have been communicated to the Department when it is received by an officer.

(2) For the purposes of this Act, a report that is sent electronically to the Department under section 64, 64AA, 64AAA, 64AAB, 64AAC, 64AB, 64ABAA, 64ACA or 64ACB is taken to have been communicated to the Department when an acknowledgment of the

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report is sent to the person identified in the report as the person sending it.

64ADAA Requirements for communicating to Department electronically

A communication that is required or permitted by this Subdivision to be made to the Department electronically must:

(a) be signed by the person who makes it (see paragraph 126DA(1)(c)); and

(b) otherwise meet the information technology requirements determined under section 126DA.

64ADA Disclosure of cargo reports to port authorities

(1) An officer may disclose a cargo report to a port authority for the purpose of enabling the authority to collect statistics or compute liability for wharfage charges.

(2) A person to whom information is disclosed under subsection (1) must not:

(a) use the information for any purpose other than the purpose for which the information was disclosed; or

(b) disclose the information to any person except to the extent necessary for that purpose.

Penalty: Imprisonment for 2 years.

(3) A reference in this section to disclosure of information includes a reference to disclosure by way of the provision of electronic access to the information.

64AE Obligation to answer questions and produce documents

(1) The operator of a ship or aircraft to whom section 64, 64AA, 64AAA, 64ACA or 64ACB applies must:

(a) answer questions asked by a Collector relating to the ship or aircraft or its cargo, crew, passengers, stores or voyage; and

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(b) produce documents requested by the Collector relating to a matter referred to in paragraph (a), if the documents are in his or her possession or control at the time of the request.

Penalty: 30 penalty units.

(1A) Subsection (1) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(2) Each cargo reporter to whom section 64AB applies must:

(a) answer questions asked by a Collector relating to the goods he or she has arranged to be carried on the relevant ship or aircraft; and

(b) produce documents requested by the Collector relating to such goods, if the documents are in his or her possession or control at the time of the request.

Penalty: 30 penalty units.

(2A) Subsection (2) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(3) It is a defence to a prosecution for an offence against subsection (1) or (2) if the person charged had a reasonable excuse for:

(a) refusing or failing to answer questions asked by a Collector; or

(b) refusing or failing to produce documents when so requested by a Collector.

64AF Obligation to provide access to passenger information

(1) An operator of an international passenger air service commits an offence if:

(a) the operator receives a request from the Comptroller-General of Customs to allow authorised officers ongoing access to the operator's passenger information in a particular manner and form; and

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(b) the operator fails to provide that access in that manner and form.

Note 1: For ***operator***, ***international passenger air service*** and ***passenger information***, see subsection (6).

Note 2: The obligation to provide access must be complied with even if the information concerned is personal information (as defined in the *Privacy Act 1988*).

Penalty: 50 penalty units.

(2) An operator of an international passenger air service does not commit an offence against subsection (1) at a particular time if, at that time, the operator cannot itself access the operator's passenger information.

Note 1: For example, the operator cannot access the operator's passenger information if the operator's computer system is not working.

Note 2: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

(3) An operator of an international passenger air service commits an offence if the operator fails to provide an authorised officer to whom the operator is required to allow access in accordance with subsection (1) with all reasonable facilities, and assistance, necessary to obtain information by means of that access and to understand information obtained.

Penalty: 50 penalty units.

(4) An operator of an international passenger air service does not commit an offence against subsection (3) if the operator had a reasonable excuse for failing to provide the facilities and assistance in accordance with that subsection.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4) (see subsection 13.3(3) of the *Criminal Code*).

(5) An authorised officer must only access an operator's passenger information for the purposes of performing his or her functions in accordance with:

(a) this Act; or

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(b) a law of the Commonwealth prescribed by regulations for the purposes of this paragraph.

(6) In this section:

Australian international flight means a flight:

(a) from a place within Australia to a place outside Australia; or

(b) from a place outside Australia to a place within Australia.

international passenger air service means a service of providing air transportation of people:

(a) by means of Australian international flights (whether or not the operator also operates domestic flights or other international flights); and

(b) for a fee payable by people using the service; and

(c) in accordance with fixed schedules to or from fixed terminals over specific routes; and

(d) that is available to the general public on a regular basis.

operator, in relation to an international passenger air service, means a person who conducts, or offers to conduct, the service.

passenger information, in relation to an operator of an international passenger air service, means any information the operator of the service keeps electronically relating to:

(a) flights scheduled by the operator (including information about schedules, departure and arrival terminals, and routes); and

(b) payments by people of fees relating to flights scheduled by the operator; and

(c) people taking, or proposing to take, flights scheduled by the operator; and

(d) passenger check-in, and seating, relating to flights scheduled by the operator; and

(e) numbers of passengers taking, or proposing to take, flights scheduled by the operator; and

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(f) baggage, cargo or anything else carried, or proposed to be carried, on flights scheduled by the operator and the tracking and handling of those things; and

(g) itineraries (including any information about things other than flights scheduled by the operator) for people taking, or proposing to take, flights scheduled by the operator.

Note: The flights referred to are any flights scheduled by the operator (not just Australian international flights).

64A Ships or aircraft arriving at certain places

(1) The master of a relevant ship or the pilot of a relevant aircraft shall, if required to do so by a Collector, make a report within such time as is specified by the Collector and in such form as is specified by the Collector, of the ship or aircraft and of the cargo of the ship or aircraft.

Penalty: 60 penalty units.

(2) The master of a relevant ship or the pilot of a relevant aircraft shall, if required to do so by a Collector, answer questions relating to the ship or aircraft, to its cargo, crew, passengers or stores or to its voyage or flight.

Penalty: 30 penalty units.

(3) The master of a relevant ship or the pilot of a relevant aircraft shall, if required to do so by a Collector, produce documents relating to the matters referred to in subsection (2).

Penalty: 30 penalty units.

(3A) Subsections (1), (2) and (3) are offences of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(4) In this section:

relevant aircraft means an aircraft that arrives from parts beyond the seas at a place other than an airport in pursuance of permission granted under section 58.

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relevant ship means a ship that arrives from parts beyond the seas at a place other than a port in pursuance of permission granted under section 58.

65 Master or pilot of wrecked ship or aircraft to report

(1) When any ship is lost or wrecked upon the coast the master or owner shall without any unnecessary delay make report of the ship and cargo by delivering to the Collector a Manifest so far as it may be possible for him or her to do so.

Penalty: 60 penalty units.

(1A) Subsection (1) does not apply to the extent that it requires the master or owner of the ship to make a report of the cargo if the master or owner has:

(a) made a cargo report in respect of the cargo; or

(b) communicated an outward manifest under section 119 in respect of the cargo.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1A) (see subsection 13.3(3) of the *Criminal Code*).

(2) When any aircraft arriving from parts beyond the seas is lost or wrecked at any place within Australia, the pilot or owner shall, without any unnecessary delay, make report of the aircraft and cargo by delivering to the Collector a Manifest so far as it may be possible for him or her to do so.

Penalty: 60 penalty units.

(2A) Subsection (2) does not apply to the extent that it requires the pilot or owner of the aircraft to make a report of the cargo if the pilot or owner has:

(a) made a cargo report in respect of the cargo; or

(b) communicated an outward manifest under section 119 in respect of the cargo.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A) (see subsection 13.3(3) of the *Criminal Code*).

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(3) Subsections (1) and (2) are offences of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

66 Goods derelict to be delivered to officer

Whoever has any dutiable goods derelict flotsam jetsam lagan or wreck in his or her possession shall deliver the same to an officer without unnecessary delay.

Penalty: 20 penalty units.

67 Interference with derelict goods

(1) No person shall unnecessarily move alter or interfere with any goods derelict flotsam jetsam lagan or wreck.

Penalty: 20 penalty units.

(2) Subsection (1) does not apply to a person who moves, alters or interferes with the goods by authority.

Note: For ***by authority***, see subsection 4(1).

Subdivision C—The registration, rights and obligations of special reporters

67EA Special reporters

For the purposes of section 64AB of this Act, a person or a partnership may, in accordance with this Subdivision, become a special reporter in relation to low value cargo of a particular kind.

67EB Requirements for registration as a special reporter

(1) The Comptroller-General of Customs must not register a person as a special reporter if:

(b) the applicant does not satisfy the Comptroller-General of Customs as mentioned in subsection (2) in relation to low value cargo of that kind; or

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(c) if the applicant is applying to be registered in respect of low value cargo consigned from a particular mail-order house—the applicant is not a party to a house agreement with that mail-order house in force at all times during the 3 consecutive months before the making of the application; or

(d) the applicant does not have dedicated computer facilities having such specifications as are determined, in writing, by the Comptroller-General of Customs for the purpose of this paragraph, in relation to low value cargo generally, including, in particular, specifications to ensure that the information maintained by the applicant in those facilities will not be able to be accessed or altered by unauthorised persons; or

(e) in the opinion of the Comptroller-General of Customs:

(i) if the applicant is a natural person—the applicant is not a fit and proper person to be registered as a special reporter; or

(ii) if the applicant is a partnership—any of the partners is not a fit and proper person to be a member of a partnership registered as a special reporter; or

(iii) if the applicant is a company—any director, officer or shareholder of a company who would participate in the management of the affairs of the company is not a fit and proper person so to participate; or

(iv) an employee of the applicant who would participate in the management of the applicant's dedicated computer facilities is not a fit and proper person so to participate; or

(v) if the applicant is a company—the company is not a fit and proper company to be registered as a special reporter.

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(2) An applicant for registration as a special reporter in relation to low value cargo of a particular kind is taken to comply with this subsection if, and only if, the applicant satisfies the Comptroller-General of Customs that:

(a) in a case of low value cargo consigned from a particular mail-order house to consignees in Australia—the applicant is likely to make cargo reports covering at least 1,000 such consignments per month from the mail-order house during the period of registration; or

(b) in a case of low value cargo of another prescribed kind consigned from a place outside Australia to a consignee in Australia—the applicant is likely to make cargo reports covering a number of consignments per month of that kind that is not less than the number specified in the regulations.

(3) The Comptroller-General of Customs must, in deciding whether a person is a fit and proper person for the purposes of subparagraph (1)(e)(i), (ii), (iii) or (iv) have regard to:

(a) any conviction of the person of an offence against this Act committed within the 10 years immediately before the decision; and

(b) any conviction of the person of an offence punishable by imprisonment for one year or longer:

(i) against another law of the Commonwealth; or

(ii) against a law of a State or of a Territory;

if that offence was committed within the 10 years immediately before that decision; and

(c) whether the person is an insolvent under administration; and

(d) whether the person was, in the 2 years immediately before that decision, a director of, or concerned in the management of, a company that:

(i) had been, or is being, wound up; or

(ii) had had its registration as a special reporter in relation to any low value cargo of any kind cancelled by the Comptroller-General of Customs because of a breach of any condition to which the registration of the company as a special reporter was subject; and

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(e) whether any misleading information or document has been furnished in relation to the person by the applicant under subsection 67EC(2), 67ED(5) or 67EK(12); and

(f) if any information or document given by or in relation to the person was false—whether the applicant knew that the information or document was false; and

(g) whether the person has been refused a transport security identification card, or has had such a card suspended or cancelled, within the 10 years immediately before the decision.

(4) The Comptroller-General of Customs must, in deciding whether a company is a fit and proper company for the purpose of subparagraph (1)(e)(v), have regard to:

(a) any conviction of the company of an offence:

(i) against this Act; or

(ii) if it is punishable by a fine of $5,000 or more—against another law of the Commonwealth, or a law of a State or of a Territory;

committed:

(iii) within the 10 years immediately before that decision; and

(iv) at a time when any person who is presently a director, officer or shareholder of a kind referred to in subparagraph (1)(e)(iii) in relation to the company was such a director, officer or shareholder; and

(b) whether a receiver of the property, or part of the property, of the company has been appointed; and

(c) whether the company is under administration within the meaning of the *Corporations Act 2001*; and

(d) whether the company has executed, under Part 5.3A of that Act, a deed of company arrangement that has not yet terminated; and

(e) whether the company is under restructuring within the meaning of that Act; and

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(ea) whether the company has made, under Division 3 of Part 5.3B of that Act, a restructuring plan that has not yet terminated; and

(f) whether the company is being wound up.

(5) Nothing in this section affects the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieves persons from the requirement to disclose spent convictions and requires persons aware of such convictions to disregard them).

67EC The making of an application

(1) An applicant for registration as a special reporter in respect of low value cargo of a particular kind may make an application under this subsection in relation to cargo of that kind.

(2) An application must:

(a) be in writing; and

(b) be in an approved form; and

(c) contain such information as the form requires; and

(d) be accompanied by such other documentation as the form requires; and

(e) be signed in the manner indicated in the form; and

(f) be lodged as required by subsection (4).

(3) Without limiting by implication the generality of the information that may be required by the approved form, the application must indicate the premises in Australia at which the dedicated computer facilities of the applicant are located and the premises in Australia at which documents relating to information required to be stored on those facilities are or will be located.

(4) An application is taken to have been lodged with the Department when the application is first received by an officer of Customs designated by the Comptroller-General of Customs to receive such applications.

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(5) The day on which an application is taken to have been lodged must be recorded on the application.

(6) For the avoidance of doubt, it is the intention of the Parliament that a person who seeks to be registered as a special reporter:

(a) if the person seeks that registration in relation to low value cargo consigned from more than one mail-order house—must make a separate application for such registration in relation to each such house; and

(c) if the person seeks that registration in relation to low value cargo of any other kind prescribed by the regulations—must make a separate application for such registration in relation to each prescribed kind of low value cargo.

67ED Consideration of the application

(1) If an application under section 67EC for registration as a special reporter in relation to low value cargo of a particular kind is lodged, the Comptroller-General of Customs must, having regard:

(a) to the terms of the application; and

(b) if additional information is supplied in response to a requirement under subsection (5)—to that additional information;

decide whether or not to register the applicant in relation to low value cargo of that kind.

(2) The Comptroller-General of Customs must make a decision within 60 days after:

(a) if paragraph (b) does not apply—the lodgment of the application; and

(b) if the Comptroller-General of Customs requires further information to be supplied under subsection (5) and the applicant supplies the information in accordance with that subsection—the receipt of the information.

(3) If the Comptroller-General of Customs decides to register the applicant in relation to low value cargo of the kind referred to in the application, the Comptroller-General of Customs must register

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the applicant as a special reporter in respect of low value cargo of that kind and notify the applicant, in writing, of that decision specifying the day on which the registration comes into force.

(4) If the Comptroller-General of Customs decides not to register the applicant in respect of low value cargo of that kind referred to in the application, the Comptroller-General of Customs must notify the applicant, in writing, of that decision setting out the reasons for so deciding.

(5) If, in considering the application, the Comptroller-General of Customs decides that he or she needs further information on any matter dealt with in the application:

(a) the Comptroller-General of Customs may, by notice in writing to the applicant, require the applicant to provide such additional information relating to that matter as the Comptroller-General of Customs specifies within a period specified in the notice; and

(b) unless the information is given to the Comptroller-General of Customs within that period—the applicant is taken to have withdrawn the application.

67EE Basic conditions attaching to registration as a special reporter

(1) The registration of a special reporter is subject to:

(a) the conditions set out in this section and section 67EF; and

(b) if the special reporter is registered as a special reporter in respect of low value cargo consigned from a mail-order house—section 67EG; and

(c) if regulations under section 67EH apply—that section.

(2) The special reporter must give the Comptroller-General of Customs written information of any of the following matters within 30 days after the occurrence of the matter:

(a) any matter that might, if the reporter were not a special reporter but were an applicant for registration, cause paragraph 67EB(1)(e) to apply in relation to the reporter;

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(b) if, after the registration, or renewal of registration, of a company as a special reporter, a person commences to participate, as a director, officer or shareholder, in the management of the affairs of the company—the fact of such commencement; and

(c) if, after the registration, or renewal of registration, of a special reporter, a person commences to participate as an employee of the special reporter in the management of the dedicated computer facilities of the special reporter—the fact of such commencement; and

(d) if the special reporter is a partnership—the fact of any change in the membership of the partnership.

(3) The special reporter must communicate such cargo reports by using dedicated computer facilities.

67EF Storage and record maintenance conditions

(1) A person who is or has been a special reporter must:

(a) store in dedicated computer facilities at notified premises all information relating to individual consignments that the reporter would, but for the reporter's registration under section 67ED or renewal of registration under section 67EK, be required to give to the Department under section 64AB; and

(b) for 2 years after the date that an abbreviated cargo report covering a consignment is transmitted to the Department, retain at notified premises all the information stored under paragraph (a) in relation to that consignment and also all physical documents of a prescribed kind that cover or relate to that consignment.

(2) If, at any time, while a person is, or within 2 years after the person ceased to be, a special reporter in relation to low value cargo of a particular kind, the person intends to change the location of notified premises at which:

(a) all or any of the dedicated computer facilities used to store information relating to cargo of that kind are situated; or

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(b) all or any documents containing information relating to cargo of that kind required to be stored in such facilities are situated;

the person must, before so doing, notify the Comptroller-General of Customs in writing of the intention to change the premises and include particulars of the changes proposed and of the date on which those changes will take effect.

(3) The special reporter must ensure that the changed premises referred to in subsection (2) are located in Australia.

(4) The special reporter must provide an officer of Customs with online access to the information stored and retained under subsection (1) and with the capacity to download that information, or a part of that information, at any time as required by an officer of Customs.

(5) The special reporter must, despite providing an officer of Customs with the capacity to download information referred to in subsection (4), electronically transfer that information, or a part of that information, to an officer of Customs at any reasonable time as required by an officer of Customs.

67EG Special mail-order house condition

If a person is registered as a special reporter in relation to low value cargo consigned from a particular mail-order house, the person must:

(a) ensure, at all times while that person continues to be a special reporter in relation to that mail-order house, that there is in force between the person and that mail-order house a house agreement within the meaning of section 63A; and

(b) if the agreement expires or for any reason is terminated or there is a breach or an alleged breach of the terms of that agreement—notify the Comptroller-General of Customs, in writing, of that expiration or termination or of that breach or alleged breach.

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67EH Further conditions may be imposed by regulations

The regulations may, at any time, provide that:

(a) if a person is first registered as a special reporter after that time; or

(b) if a person's registration as a special reporter is renewed after that time;

that registration, or registration as renewed, is subject to such further conditions relevant to registration or renewal of registration as a special reporter under this Subdivision as the regulations specify.

67EI Breach of conditions of registration

(1) A person who is or has been a special reporter must not breach a condition of the person's registration as a special reporter.

Penalty: 60 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

67EJ Duration of registration

If a person is registered as a special reporter in relation to low value cargo of a particular kind, that registration:

(a) unless paragraph (b) applies—comes into force on a date specified by the Comptroller-General of Customs under subsection 67ED(3); and

(b) if it is a renewed registration—comes into force on a date determined under subsection 67EK(8); and

(c) remains in force for 2 years after it comes into force unless, before that time, it is cancelled under section 67EM.

67EK Renewal of registration

(1) A person who is a special reporter in relation to low value cargo of a particular kind may seek renewal of registration in relation to

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cargo of that kind by making and lodging a further application in accordance with the requirements of section 67EC:

(a) unless paragraph (b) applies—not later than 30 days before the end of the current period of registration; or

(b) if the Comptroller-General of Customs is satisfied that, for reasons beyond the control of the special reporter, it was not possible to meet the requirements of paragraph (a)—not later than such later date before the end of the period of registration as the Comptroller-General of Customs specifies.

(2) Subject to subsection (3), sections 67EB and 67EC apply in relation to an application for renewal of registration in the same manner as they applied to the original application.

(3) Subsection 67EB(2) has effect in relation to an application for renewal of registration:

(a) if the registration relates to a low value cargo consigned from a particular mail-order house—as if that subsection required the applicant, as a special reporter, to have reported at least 3,000 consignments of such cargo from that house during the 3 months immediately before the making of the application; and

(c) if the registration relates to low value cargo of another prescribed kind—as if that subsection required the applicant, as a special reporter, to have reported at least the prescribed number of consignments of cargo of that kind during the 3 months before the making of the application.

(4) In considering an application for renewal of registration as a special reporter, if the Comptroller-General of Customs has varied the specifications in relation to dedicated computer facilities in any manner, the special reporter must ensure that the computer facilities meet the specifications as so varied.

(5) If an application for renewal of registration as a special reporter in relation to low value cargo of a particular kind is lodged, the Comptroller-General of Customs must, having regard to the terms of the application and, where additional information is supplied under subsection (12), to the additional information, decide

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whether or not to renew the registration of the applicant in relation to low value cargo of that kind.

(6) The Comptroller-General of Customs must make the decision before, or as soon as possible after, the end of the current period of registration.

(7) If, for any reason, the Comptroller-General of Customs has not completed the consideration of the application for renewal of registration at the time when the current period of registration would, but for this subsection, expire, the current period of registration is taken to continue until the consideration of the application is concluded and a resulting decision made.

(8) If the Comptroller-General of Customs decides to renew the registration of a special reporter in relation to low value cargo of a particular kind, the Comptroller-General of Customs must renew the registration and notify the applicant for renewal, in writing, of that decision specifying the day on which, in accordance with subsection (10), the renewal of registration comes into force.

(9) If the Comptroller-General of Customs decides not to renew the registration of a special reporter in relation to low value cargo of a particular kind, the Comptroller-General of Customs must notify the applicant for renewal, in writing, of that decision setting out the reasons for so deciding.

(10) If the Comptroller-General of Customs decides to renew the registration of a special reporter in relation to low value cargo of a particular kind, that renewal takes effect on the day following the end of the current period of registration, or of that period as it is taken to have been extended under subsection (7).

(11) If the Comptroller-General of Customs refuses to renew the registration of a special reporter in relation to low value cargo of a particular kind, the registration in relation to cargo of that kind continues:

(a) until the end of the current period of registration, unless it is earlier cancelled; or

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(b) if the current period of registration is taken to have been extended under subsection (7)—until the making of the decision to refuse to renew registration.

(12) If, in considering an application for renewal of registration, the Comptroller-General of Customs decides that he or she needs further information on any matter dealt with in the application:

(a) the Comptroller-General of Customs may, by notice in writing to the applicant, require the applicant to provide such additional information relating to the matter as the Comptroller-General of Customs specifies within a period specified in the notice; and

(b) unless the information is given to the Comptroller-General of Customs within that period—the applicant is taken to have withdrawn the application.

67EL Comptroller-General of Customs to allocate a special identifying code for each special reporter

If the Comptroller-General of Customs registers an applicant as a special reporter in respect of low value cargo of a particular kind, the Comptroller-General of Customs must allocate to the reporter a special identifying code for use by the special reporter when making an abbreviated cargo report in relation to cargo of that kind.

67EM Cancellation of registration as special reporter

(1) The Comptroller-General of Customs may, at any time, give to a special reporter a notice of intention to cancel the special reporter's registration if the Comptroller-General of Customs is satisfied that:

(b) if the special reporter were not a special reporter but were an applicant for registration—circumstances have arisen whereby paragraph 67EB(1)(e) applies in relation to the reporter; or

(c) the special reporter has breached any condition to which the registration as a special reporter is subject in accordance with section 67EE, 67EF, 67EG or 67EH; or

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(d) if the special reporter is registered as such in relation to low value cargo consigned from a particular mail-order house:
(i) there is no longer a house agreement in force between the special reporter and that house; or
(ii) the terms of such an agreement have been breached.

(2) For the purposes of paragraph (1)(b), the expression ***10 years immediately before the decision*** in subsections 67EB(3) and (4) is to be taken to be 10 years immediately before the notice.

(3) The notice of intention to cancel registration must:
(a) specify the ground or grounds for the intended cancellation; and
(b) invite the special reporter to provide a written statement to the Comptroller-General of Customs within 30 days after the notice is given (the ***submission period***) explaining why the registration should not be cancelled; and
(c) state that the Comptroller-General of Customs may decide to cancel the registration at any time within the 14 days following the end of the submission period, if the grounds or at least one of the grounds exists at that time.

(4) At any time within the 14 days referred to in paragraph (3)(c), the Comptroller-General of Customs may, by notice in writing, decide to cancel the registration of the special reporter generally in relation to low value cargo of all kinds or of a particular kind, as the Comptroller-General of Customs considers appropriate, if, having regard to any statements made by the special reporter in response to the notice, the Comptroller-General of Customs is satisfied that at least one of the grounds specified in the notice exists at the time of the decision.

(5) If the Comptroller-General of Customs decides to cancel the registration within the 14 days, the registration is cancelled:
(a) if paragraph (b) does not apply—28 days after the decision of the Comptroller-General of Customs; or

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(b) if the special reporter applies to the Administrative Review Tribunal for a review of the decision of the Comptroller-General of Customs—when:

(i) the Tribunal affirms the decision of the Comptroller-General of Customs; or

(ii) the application for review is withdrawn by the special reporter or dismissed by the Tribunal.

(6) The Comptroller-General of Customs must, by notice in writing, cancel a registration if the Comptroller-General of Customs receives a written request by the special reporter that the registration be cancelled on or after a specified day indicated in the request letter.

(7) A notice under subsection (1), (4) or (6) may be served:

(a) by post at the address indicated by the special reporter in the application for registration or renewal or at an address subsequently indicated by the special reporter; or

(b) if the special reporter is a company—by post at the registered office of the company; or

(c) by giving it personally to the special reporter, if the special reporter is a natural person.

(8) Failure to send a notice to a special reporter under subsection (6) does not affect the cancellation of the registration.

Subdivision E—Registering re-mail reporters

67F Applying to be a re-mail reporter

(1) A person or partnership may apply to be registered as a re-mail reporter.

Note: A re-mail reporter is generally not required to give information about individual re-mail items in a cargo report: see subsections 64AB(7A) and (7B).

(2) An application must:

(a) be in writing; and

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(b) be in an approved form; and
(c) contain the information that the form requires; and
(d) be accompanied by any other documentation that the form requires; and
(e) be signed in the manner indicated by the form; and
(f) be lodged with an authorised officer.

67G Registering re-mail reporters

(1) The Comptroller-General of Customs must register an applicant as a re-mail reporter if:
(a) the applicant applies under section 67F; and
(b) the Comptroller-General of Customs is satisfied that the applicant would be unlikely to have information, or access to information, about re-mail items that would allow the applicant to make cargo reports at a level of specificity below the level of submaster air waybill or ocean bill of lading; and
(c) the Comptroller-General of Customs is satisfied that the applicant meets the fit and proper person test under section 67H.

(2) For the purposes of deciding whether to register the applicant, the Comptroller-General of Customs may request, in writing, the applicant to provide additional information specified in the request within a specified period.

(3) The Comptroller-General of Customs must decide whether to register the applicant within:
(a) if no additional information has been requested under subsection (2)—60 days of the lodgment of the application under section 67F; or
(b) if additional information has been requested under subsection (2)—60 days of the Comptroller-General of Customs receiving the information.

(4) The Comptroller-General of Customs must:
(a) notify the applicant in writing of his or her decision; and

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(b) if the decision is to register the applicant—specify, in the notification, the day from which the applicant is registered as a re-mail reporter.

(5) The registration may be made subject to any conditions specified in the notification.

67H Fit and proper person test

(1) An applicant meets the fit and proper person test for the purposes of paragraph 67G(1)(c) if the Comptroller-General of Customs is satisfied that:

(a) if the applicant is a natural person—the applicant is a fit and proper person to be registered as a re-mail reporter; and

(b) if the applicant is a partnership—all of the partners are fit and proper persons to be members of a partnership registered as a re-mail reporter; and

(c) if the applicant is a company—all of the company's directors, officers and shareholders who would participate in managing the affairs of the company are fit and proper persons to do so; and

(d) each employee of the applicant who would participate in making cargo reports in relation to re-mail items under section 64AB is a fit and proper person to do so; and

(e) if the applicant is a company—the company is a fit and proper company to be registered as a re-mail reporter.

(2) The Comptroller-General of Customs must, in deciding whether a person is a fit and proper person for the purposes of paragraph (1)(a), (b), (c) or (d), have regard to:

(a) any conviction of the person of an offence against this Act committed within the 10 years immediately before the decision; and

(b) any conviction of the person of an offence punishable by imprisonment for one year or longer:

(i) against another law of the Commonwealth; or

(ii) against a law of a State or Territory;

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if that offence was committed within the 10 years immediately before that decision; and

(c) whether the person is an insolvent under administration; and

(d) whether the person was, in the 2 years immediately before that decision, a director of, or concerned in the management of, a company that:

(i) had been, or is being, wound up; or

(ii) had had its registration as a re-mail reporter cancelled by the Comptroller-General of Customs under paragraph 67K(1)(a), (b) or (d); and

(e) whether any misleading information or document has been provided in relation to the person by the applicant under subsection 67F(2) or 67G(2); and

(f) if any information or document given by or in relation to the person was false—whether the applicant knew that the information or document was false; and

(g) whether the person has been refused a transport security identification card, or has had such a card suspended or cancelled, within the 10 years immediately before the decision.

(3) The Comptroller-General of Customs must, in deciding whether a company is a fit and proper company for the purpose of paragraph (1)(e), have regard to:

(a) any conviction of the company of an offence:

(i) against this Act; or

(ii) if it is punishable by a fine of $5,000 or more—against another law of the Commonwealth, or a law of a State or Territory;

committed:

(iii) within the 10 years immediately before that decision; and

(iv) at a time when any person who is presently a director, officer or shareholder of a kind referred to in paragraph (1)(c) in relation to the company, was such a director, officer or shareholder; and

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(b) whether a receiver of the property, or part of the property, of the company has been appointed; and

(c) whether the company is under administration within the meaning of the *Corporations Act 2001*; and

(d) whether the company has executed, under Part 5.3A of that Act, a deed of company arrangement that has not yet terminated; and

(e) whether the company is under restructuring within the meaning of that Act; and

(ea) whether the company has made, under Division 3 of Part 5.3B of that Act, a restructuring plan that has not yet terminated; and

(f) whether the company is being wound up.

(4) Nothing in this section affects the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and requires persons aware of such convictions to disregard them).

67I Obligation of re-mail reporters to notify Comptroller-General of Customs of certain matters

A re-mail reporter must notify the Comptroller-General of Customs in writing if:

(a) an event or circumstance occurs after the reporter's registration which section 67H would require the Comptroller-General of Customs to have regard to if the reporter were, at that time, an applicant for registration; or

(b) a person becomes, or ceases to be:

(i) if the reporter is a partnership—a member of the partnership; and

(ii) if the reporter is a company—a director, officer or shareholder of the company who would participate in managing the affairs of the company; and

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(iii) an employee of the reporter who would participate in making cargo reports in relation to re-mail items under section 64AB.

67J Varying etc. conditions of registration

(1) After registration, the Comptroller-General of Customs may impose a new condition on a re-mail reporter's registration by notifying the reporter in writing of the condition.

(2) The Comptroller-General of Customs may remove or vary any condition of a re-mail reporter's registration by notifying the reporter in writing of the removal or variation.

67K Cancelling the registration of a re-mail reporter

(1) The Comptroller-General of Customs may cancel the registration of a re-mail reporter if:

(a) the reporter reports an item of cargo in the approved form or statement referred to in subsection 64AB(7A) that was not a re-mail item; or

(b) the reporter uses the approved form or statement in breach of subsection 64AB(7B); or

(c) the Comptroller-General of Customs is no longer satisfied as mentioned in paragraph 67G(1)(b) or (c); or

(d) the reporter breaches a condition of the reporter's registration or section 67I.

(2) The Comptroller-General of Customs must notify the reporter in writing of the cancellation of the registration.

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Division 4—The entry, unshipment, landing, and examination of goods

Subdivision A—Preliminary

68 Entry of imported goods

(1) This section applies to:

(a) goods that are imported into Australia; and

(b) goods that are intended to be imported into Australia and that are on board a ship or aircraft that has commenced its journey to Australia; and

(c) a ship or aircraft that is intended to be imported into Australia and that has commenced its journey to Australia;

but does not apply to:

(d) goods that are accompanied or unaccompanied personal or household effects of a passenger, or a member of a crew, of a ship or aircraft; and

(e) goods, other than prescribed goods:

(i) that are included in a consignment consigned through the Post Office by one person to another; and

(ii) that have a value not exceeding $1,000 or such other amount as is prescribed; and

(f) goods, other than prescribed goods:

(i) that are included in a consignment consigned otherwise than by post by one person to another; and

(ii) that are all transported to Australia in the same ship or aircraft; and

(iii) that have a value not exceeding $250 or such other amount as is prescribed; and

(g) containers:

(i) that are the property of a person carrying on business in Australia; and

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(ii) that are imported on a temporary basis to be re-exported, whether empty or loaded; and

(h) containers:

(i) that were manufactured in Australia; and

(ii) that are, when imported into Australia, the property of a person carrying on business in Australia; and

(iii) that were the property of that person when, and have remained the property of that person since, they were exported or were last exported from Australia; and

(i) goods that, under the regulations, are exempted from this section, either absolutely or on such terms and conditions as are specified in the regulations; and

(j) goods stated in a cargo report to be goods whose destination is a place outside Australia.

(2) The owner of goods to which this section applies may enter the goods for home consumption or, for goods other than tobacco products, enter the goods for warehousing:

(a) for goods carried on board a ship or aircraft—at any time before the ship or aircraft first arrives at a port or airport in Australia at which any goods are to be discharged; or

(b) for goods that are a ship or aircraft and that are not carried on board a ship or aircraft—at any time before the ship or aircraft first arrives at a port or airport in Australia.

Note: Tobacco products cannot be entered for warehousing (see section 71DG).

(3) If the owner of goods to which this section applies does not enter the goods under subsection (2), the owner must enter the goods for home consumption or, for goods other than tobacco products, enter the goods for warehousing:

(a) for goods carried on board a ship or aircraft—after the ship or aircraft first arrives at a port or airport in Australia at which any goods are to be discharged; or

(b) for goods that are a ship or aircraft and that are not carried on board a ship or aircraft—after the ship or aircraft first arrives at a port or airport in Australia.

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(3A) An entry of goods for home consumption is made by communicating to the Department an import declaration in respect of the goods.

(3B) An entry of goods (other than tobacco products) for warehousing is made by communicating to the Department a warehouse declaration in respect of the goods.

(4) For the purposes of paragraph (1)(d), goods:

(a) in quantities exceeding what could reasonably be expected to be required by a passenger or member of the crew of a ship or aircraft for his or her own use; or

(b) that are, to the knowledge or belief of a passenger or member of the crew of a ship or aircraft, to be sold, or used in the course of trading, in Australia;

are not included in the personal or household effects of a passenger or crew member.

(5) For the purposes of paragraphs (1)(e) or (f), the value of goods must be ascertained or determined under Division 2 of Part VIII.

68A Goods imported for transhipment

If a cargo report in relation to goods states that the destination of the goods is a place outside Australia, an officer may direct a person who has possession of the goods:

(a) not to move the goods; or

(b) to move them to a place specified in the direction.

69 Like customable goods and excise-equivalent goods

(1A) This section does not apply to tobacco products.

(1) A person may apply to the Collector for permission to deliver into home consumption like customable goods or excise equivalent goods:

(a) of a kind specified in the application; and

(b) to which section 68 applies;

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without entering them for that purpose:

(c) in respect of a recurring 7 day period; or

(d) in respect of a calendar month if:

(ia) the person is a small business entity, or is a person covered by subsection (1AA), (an ***eligible business entity***); or

(i) the person is included in a class prescribed by the regulations; or

(ii) the like customable goods or excise-equivalent goods to be delivered into home consumption are of a kind prescribed by the regulations for the purposes of this subparagraph; or

(e) for excise equivalent goods—in respect of a quarter, if the person is an eligible business entity.

(1AA) A person is covered by this subsection if:

(a) the person is not a small business entity; and

(b) the person would be a small business entity if:

(i) each reference in Subdivision 328-C (about what is a small business entity) of the *Income Tax Assessment Act 1997* to $10 million were instead a reference to $50 million; and

(ii) the reference in paragraph 328-110(5)(b) of that Act to a small business entity were instead a reference to a person covered by this subsection.

(2) If a person applies in respect of a recurring 7 day period, the person may specify in the application the 7 day period that the person wishes to use.

(3) Despite the definition of ***days*** in section 4, Sundays and public holidays are counted as days for the purpose of determining a recurring 7 day period. This subsection does not affect the operation of section 36 of the *Acts Interpretation Act 1901*.

(4) An application must be made in writing in an approved form.

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(5) The Collector may, on receiving an application under subsection (1) or advice under subsection (13) or (14), by notice in writing:

(a) give permission to the person to deliver into home consumption, from a place specified in the permission:

(i) like customable goods to which section 68 applies; or

(ii) excise-equivalent goods to which section 68 applies;

to which the application relates without entering them for that purpose; or

(b) refuse to give such a permission and set out in the notice the reasons for so refusing.

(6) If a permission is to apply in respect of a 7 day period, the notice must specify:

(a) the 7 day period for which permission is given; and

(b) the first day of the 7 day period from which permission is given.

(7) If a permission is to apply in respect of a calendar month, the notice must specify the calendar month from which permission is given.

(7A) If a permission is to apply in respect of a quarter, the notice must specify the quarter from which permission is given.

(8) A permission given under subsection (5) in respect of like customable goods or excise-equivalent goods is subject to the following conditions:

(a) if a person's permission applies in respect of a 7 day period and specifies goods other than gaseous fuel—the condition that, to the extent that the permission relates to goods other than gaseous fuel, the person give the Collector a return, by way of a document or electronically, on the first day following the end of each 7 day period, providing particulars in accordance with section 71K or 71L in relation to the goods that have, during the period to which the return relates, been delivered into home consumption under the permission;

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(b) if a person's permission applies in respect of a 7 day period and specifies gaseous fuel—the condition that, to the extent that the permission relates to gaseous fuel, the person give the Collector a return, by way of a document or electronically, on or before the seventh day following the end of each 7 day period, providing particulars in accordance with section 71K or 71L in relation to the gaseous fuel that has, during the period to which the return relates, been delivered into home consumption under the permission;

(c) if a person is an eligible business entity and the person's permission applies in respect of a calendar month—the condition that the person give the Collector a return, by way of a document or electronically, on or before the 21st day of each calendar month, providing particulars in accordance with section 71K or 71L in relation to the goods that have, during the previous calendar month, been delivered into home consumption under the permission;

(d) if a person's permission applies in respect of a calendar month and the person is included in a class mentioned in subparagraph (1)(d)(i) or has permission to enter like customable goods or excise-equivalent goods of a kind prescribed by the regulations for the purposes of subparagraph (1)(d)(ii)—any condition prescribed by the regulations;

(da) if a person is an eligible business entity and the person's permission applies in respect of a quarter—the condition that the person give the Collector a return, by way of a document or electronically, on or before:

(i) for a quarter ending on 31 March, 30 June or 30 September—the 28th day after the end of the quarter; and

(ii) for a quarter ending on 31 December—the 28th day of the February after the end of the quarter;

providing particulars in accordance with section 71K or 71L in relation to the excise equivalent goods that have, during the quarter, been delivered into home consumption under the permission;

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(e) if a person ceases to be an eligible business entity—the condition that the person advise the Collector, in writing, of that fact as soon as practicable after ceasing to be an eligible business entity;

(f) if a person ceases to be included in a class mentioned in subparagraph (1)(d)(i)—the condition that the person advise the Collector, in writing, of that fact as soon as practicable after ceasing to be included in that class;

(g) in any case—the condition that on or after the goods are imported and before they are delivered into home consumption, the goods to which the permission relates must have been or must be entered for warehousing;

(h) the condition that, at the time when each return is given to the Collector, the person pay any duty owing at the rate applicable when the goods were delivered into home consumption;

(i) any other condition, specified in the permission, that the Collector considers appropriate.

Note: Paragraphs (8)(a), (b), (c), (d) and (da)—see also subsection (9).

(9) Despite paragraphs (8)(a), (b), (c), (d) and (da), the Collector may determine different conditions for giving the Collector a return if subsection (13) or (14) applies.

(10) A person to whom a permission is given under subsection (5) must comply with any conditions to which the permission is subject.

Penalty: 60 penalty units.

(11) Subsection (10) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(12) If the Collector is satisfied that a person to whom a permission has been given under subsection (5) has failed to comply with any condition to which the permission is subject, the officer may, at any time while the permission remains in force, by notice in writing, revoke the permission. The notice must set out the reasons for the revocation.

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(13) If:

(a) a person is an eligible business entity or included in a class mentioned in subparagraph (1)(d)(i); and

(b) the person's permission applies in respect of a calendar month or a quarter; and

(c) the person advises the Collector, in writing, that the person ceases to be an eligible business entity or included in a class mentioned in subparagraph (1)(d)(i);

the Collector must, by notice in writing:

(d) revoke the permission with effect from a specified day; and

(e) give another permission under subsection (5) in respect of a 7 day period.

(14) If a person advises the Collector, in writing, that the person wishes to change the 7 day period in respect of which their permission applies, the Collector may, by notice in writing:

(a) revoke the permission with effect from a specified day; and

(b) give another permission under subsection (5) in respect of another period.

(15) Subsections (12) to (14) do not, by implication, limit the application of subsections 33(3) and (3AA) of the *Acts Interpretation Act 1901*.

70 Special clearance goods

(1) In this section, ***special clearance goods*** means goods to which section 68 applies comprising:

(a) goods reasonably required for disaster relief or for urgent medical purposes; or

(b) engines or spare parts that are unavailable in Australia and are urgently required for ships or aircraft, or for other machinery that serves a public purpose; or

(c) perishable food.

(2) A person who has imported or proposes to import goods referred to in paragraph (a) of the definition of ***special clearance goods*** may

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apply to the Collector at any time, in writing, for permission to deliver the goods into home consumption without entering them for that purpose.

(3) A person who has imported goods referred to in paragraph (b) or (c) of the definition of ***special clearance goods*** may apply to the Collector, in writing, for permission to deliver the goods into home consumption without entering them for that purpose:

(a) if the goods become subject to customs control outside the hours of business for dealing with import entries; and

(b) the application is made before those hours of business resume.

(4) Subject to subsection (5), the Collector may, on receipt of an application under subsection (2) or (3), by notice in writing:

(a) grant permission for the goods to which the application relates to be delivered into home consumption without entering them for that purpose; or

(b) refuse to grant such a permission and set out in the notice the reasons for so refusing.

(5) A permission granted in respect of goods is subject to any condition, specified in the permission, that the Collector considers appropriate.

(6) Where an application is made in respect of perishable food, the Collector must not grant the permission unless he or she is satisfied that, if he or she refused to do so, the food would be of little or no commercial value when the hours of business for dealing with import entries resumed.

(7) Where permission is granted in respect of goods, the person to whom the permission is granted must:

(a) give the Department a return, within 7 days of the delivery of the goods into home consumption, providing particulars in accordance with section 71K or 71L in relation to the goods; and

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(b) at the time when the return is given to the Department, pay any duty owing at the rate applicable when the goods were delivered into home consumption; and

(c) comply with any condition to which the permission is subject.

Penalty: 60 penalty units.

(7A) Subsection (7) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(8) Where the Collector is satisfied that a person to whom a permission has been granted under this section has failed to comply with any of the conditions to which the permission is subject, the Collector may, at any time before goods are delivered into home consumption, by notice in writing, revoke the permission and set out in the notice the reasons for that revocation.

(9) In this section, a reference to the hours of business for dealing with import entries is a reference to a time when, under regulations made for the purposes of section 28, the applicant would be able to give a documentary import declaration to the Department.

71 Information and grant of authority to deal with goods not required to be entered

Information to be given under this section

(1) A person to whom section 71AAAB or 71AAAF applies must give information to the Department under this section in the circumstances mentioned in those sections.

Authority to deal granted under this section

(2) A Collector must, if circumstances mentioned in Subdivision AA or AB of this Division require it, give an authority to deal with goods under this section.

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Refusal to grant authority to deal under this section

(3) A Collector may, in the circumstances mentioned in section 71AAAB, refuse under this section to authorise the delivery of goods into home consumption.

Subdivision AA—Information and grant of authority to deal with Subdivision AA goods

71AAAA Meaning of *Subdivision AA goods*

In this Subdivision:

Subdivision AA goods means:

(a) goods of a kind referred to in paragraph 68(1)(d); and

(b) goods that are prescribed by regulations made for the purposes of subsection 71AAAE(1).

71AAAB Report and grant of authority to deal with Subdivision AA goods

Providing information about Subdivision AA goods

(1) A person:

(a) who is the owner of Subdivision AA goods; or

(b) who is covered by regulations made under subsection 71AAAE(2);

must, in the circumstances specified in the regulations, provide, under section 71, the information specified in the regulations:

(c) at the time; and

(d) in the manner and form;

specified in the regulations.

Authority to deal with Subdivision AA goods

(2) If Subdivision AA goods are imported into Australia, a Collector must, having regard to information about the goods given under subsection (1) and (if any) section 196C:

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(a) authorise the delivery of the goods into home consumption under section 71; or

(b) refuse to authorise the delivery of the goods into home consumption and give reasons for the refusal.

(3) A decision of a Collector mentioned in subsection (2) must be communicated in writing, electronically, or by another method prescribed by the regulations.

Duty etc. to be paid before authority given

(4) A Collector must not give an authority to deal with Subdivision AA goods unless the duty (if any) and any other charge or tax (if any) payable on the importation of the goods has been paid.

71AAAC Suspension of authority to deal with Subdivision AA goods

Suspension of authority to deal

(1) If:

(a) a Collector has given an authority to deal with Subdivision AA goods; and

(b) before the goods are dealt with in accordance with the authority, an officer has reasonable grounds to suspect that the goods were imported into Australia in contravention of a Customs-related law;

the officer may suspend the authority for a specified period.

(2) An officer suspends an authority to deal with Subdivision AA goods by signing a notice:

(a) stating that the authority is suspended; and

(b) setting out the reasons for the suspension;

and serving a copy of the notice on:

(c) the owner of the goods; or

(d) if the owner does not have possession of the goods—on the person who has possession of the goods.

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Revoking a suspension of authority to deal

(3) If, during the period of a suspension of an authority to deal with Subdivision AA goods, an officer becomes satisfied that there are no longer reasonable grounds to suspect that the goods were imported into Australia in contravention of a Customs-related law, the officer must revoke the suspension.

(4) An officer revokes a suspension of an authority to deal with Subdivision AA goods by signing a notice:

(a) stating that the authority is suspended; and

(b) setting out the reasons for the suspension;

and serving a copy of the notice on:

(c) the owner of the goods; or

(d) if the owner does not have possession of the goods—on the person who has possession of the goods.

When suspension or revocation of suspension has effect

(5) A suspension of an authority to deal with Subdivision AA goods, or a revocation of a suspension of such an authority, has effect from the time when the relevant notice was given.

Subdivision AB—Information and grant of authority to deal with specified low value goods

71AAAD Meaning of *specified low value goods*

In this Subdivision:

specified low value goods means goods of a kind referred to in paragraph 68(1)(e), (f) or (i).

71AAAE Regulations

(1) The regulations may prescribe goods that are excluded from being specified low value goods.

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Note 1: These goods are Subdivision AA goods for the purposes of Subdivision AA of this Division.

Note 2: For specification by class, see subsection 13(3) of the *Legislation Act 2003*.

(2) The regulations may prescribe persons who are not required to comply with the provisions of this Subdivision.

Note 1: These persons must comply with Subdivision AA of this Division.

Note 2: For specification by class, see subsection 13(3) of the *Legislation Act 2003*.

71AAAF Making a self-assessed clearance declaration

(1) Despite section 181, the owner of specified low value goods, or a person acting on behalf of the owner, must give the Department a declaration (a ***self-assessed clearance declaration***) under section 71 containing the information that is set out in an approved statement.

(2) A self-assessed clearance declaration must be communicated electronically to the Department.

(3) A self-assessed clearance declaration may be communicated together with a cargo report.

71AAAG Collector's response if a self-assessed clearance declaration is communicated separately from a cargo report

(1) If a self-assessed clearance declaration is communicated to the Department but not together with a cargo report, a Collector must communicate a self-assessed clearance declaration advice electronically to the person who made the declaration.

(2) A self-assessed clearance declaration advice:

(a) must refer to the number given by a Collector to identify the self-assessed clearance declaration to which the advice is a response; and

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(b) must contain:

(i) a statement that the goods covered by the declaration are cleared for home consumption; or

(ii) a direction that the goods covered by the declaration be held in their current location or further examined.

71AAAH Collector's response if a self-assessed clearance declaration is communicated together with a cargo report

If a self-assessed clearance declaration is communicated together with a cargo report, a Collector may communicate electronically to the person who made the declaration a direction that the goods covered by the declaration be held in their current location or further examined.

71AAAI Authority to deal with goods covered by a self-assessed clearance declaration

If declaration is communicated separately from a cargo report

(1) If a Collector gives a self-assessed clearance declaration advice in response to a self-assessed clearance declaration, a Collector must communicate electronically to the person to whom the advice was given an authority under section 71 to deliver into home consumption the goods covered by the declaration.

Note 1: Section 71AAAL prevents a Collector from authorising the delivery of goods into home consumption while certain duty etc. payable on the goods is outstanding.

Note 2: A Collector does not have to give an authority to deal with the goods while the goods are subject to a direction under subparagraph 71AAAG(2)(b)(ii) (see section 71AAAK) or while an officer is seeking further information (see section 71AAAO).

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If declaration is communicated together with a cargo report

(2) If the Department receives a self-assessed clearance declaration together with a cargo report, a Collector must communicate electronically:

(a) if a Collector gave a direction under section 71AAAH in response to the declaration—to the person who has possession of the goods covered by the declaration; or

(b) otherwise—to the person who made the declaration;

an authority under section 71 to deliver into home consumption the goods covered by the declaration.

Note 1: Section 71AAAL prevents a Collector from authorising the delivery of goods into home consumption while certain duty etc. payable on the goods is outstanding.

Note 2: A Collector does not have to give an authority to deal with the goods while the goods are subject to a direction under section 71AAAH (see section 71AAAK) or while an officer is seeking further information (see section 71AAAO).

71AAAJ Contents of authority to deal with specified low value goods

(1) An authority to deal with specified low value goods must set out:

(a) any condition under subsection (2) of this section that applies to the authority; and

(b) the date on which the authority is given; and

(c) any other prescribed information.

(2) An authority to deal with specified low value goods may be expressed to be subject to a condition that a specified permission for the goods to be dealt with (however described) be obtained under another law of the Commonwealth.

(3) If an authority to deal with specified low value goods is expressed to be subject to the condition that a specified permission be obtained, the authority is taken not to have been given until the permission has been obtained.

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71AAAK No authority to deal with specified low value goods while subject to a direction to hold or further examine

A Collector is not required to grant an authority to deal with specified low value goods at any time while the goods are subject to a direction under subparagraph 71AAAG(2)(b)(ii) or section 71AAAH.

71AAAL No authority to deal with specified low value goods unless duty etc. paid

Duty etc. to be paid before authority given

(1) A Collector must not give an authority to deal with specified low value goods unless the duty (if any) and any other charge or tax (if any) payable on the importation of the goods has been paid.

First exception

(2) Subsection (1) does not apply in relation to an authority to deal with specified low value goods, if the goods are covered by item 2 of the table in subsection 132AA(1).

Note: Subsection 132AA(1) provides that import duty on goods covered by item 2 of the table in that subsection must be paid by a time worked out under the regulations.

Second exception

(3) Subsection (1) does not apply in relation to an authority to deal with specified low value goods, if:

(a) the only duty, charge or tax outstanding on the importation of the goods is one or more of the following:

(i) the assessed GST payable on the taxable importation, if any, that is associated with the import of the goods;

(ii) if a taxable importation of a luxury car is associated with the import of the goods—the assessed luxury car tax payable on that taxable importation;

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(iii) if a taxable dealing is associated with the import of the goods—the assessed wine tax payable on that dealing; and

(b) because of the following provisions, the unpaid assessed GST, assessed luxury car tax or assessed wine tax (as appropriate) is not payable until after duty on the goods was payable (or would have been payable if the goods had been subject to duty):

(i) paragraph 33-15(1)(b) of the GST Act;

(ii) paragraph 13-20(1)(b) of the Luxury Car Tax Act;

(iii) paragraph 23-5(1)(b) of the Wine Tax Act.

71AAAM Suspension of authority to deal with specified low value goods

Suspension of authority to deal

(1) If:

(a) a Collector has given an authority to deal with specified low value goods; and

(b) before the goods are dealt with in accordance with the authority, an officer has reasonable grounds to suspect that the goods were imported into Australia in contravention of a Customs-related law;

the officer may suspend the authority for a specified period.

(2) An officer suspends an authority to deal with specified low value goods by:

(a) if the authority was given in the circumstances mentioned in subsection 71AAAI(1)—sending electronically to the person who made the self-assessed clearance declaration a message stating that the authority is suspended and setting out the reasons for the suspension; or

(b) if the authority was given in the circumstances mentioned in subsection 71AAAI(2)—sending electronically to the person who has possession of the goods a message stating that the

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authority is suspended and setting out the reasons for the suspension.

Revoking a suspension of authority to deal

(3) If, during the period of a suspension of an authority to deal with specified low value goods, an officer becomes satisfied that there are no longer reasonable grounds to suspect that the goods were imported into Australia in contravention of a Customs-related law, the officer must revoke the suspension.

(4) An officer revokes a suspension of an authority to deal with specified low value goods by:

(a) if the authority was given in the circumstances mentioned in subsection 71AAAI(1)—sending electronically to the person who made the self-assessed clearance declaration relating to the goods a message stating that the suspension is revoked; or

(b) if the authority was given in the circumstances mentioned in subsection 71AAAI(2)—sending electronically to the person who has possession of the goods a message stating that the suspension is revoked.

When suspension or revocation of suspension has effect

(5) A suspension of an authority to deal with specified low value goods, or a revocation of a suspension of such an authority, has effect from the time when the relevant notice was given or the relevant message was sent.

71AAAN Cancellation of authority to deal with specified low value goods

(1) An officer may, at any time before specified low value goods are dealt with in accordance with an authority to deal, cancel the authority.

(2) An officer cancels an authority to deal with specified low value goods by sending electronically, to the person who has possession

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of the goods, a message stating that the authority is cancelled and setting out the reasons for the cancellation.

(3) A cancellation of an authority has effect from the time when the message was sent.

71AAAO Officer may seek further information in relation to self-assessed clearance declaration

(1) A Collector may refuse to grant an authority to deal with goods covered by a self-assessed clearance declaration until an officer doing duty in relation to self-assessed clearance declarations:

(a) has verified particulars of the goods; or

(b) is satisfied of any other matter that may be relevant to the granting of an authority to deal.

(2) If an officer doing duty in relation to self-assessed clearance declarations believes on reasonable grounds that the owner of goods covered by a self-assessed clearance declaration:

(a) has custody or control of commercial documents relating to the goods that will assist the officer to determine whether this Act has been or is being complied with in respect of the goods; or

(b) has or can obtain information that will so assist the officer;

the officer may require the owner:

(c) to deliver to the officer the commercial documents in respect of the goods that are in the owner's custody or control (including any such documents that had previously been delivered to an officer and had been returned to the owner); or

(d) to deliver to the officer such information, in writing, relating to the goods (being information of a kind specified in the notice) as is within the knowledge of the owner or as the owner is reasonably able to obtain.

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(3) A requirement for the delivery of documents or information in respect of a self-assessed clearance declaration must:

(a) be communicated electronically to the person who made the declaration; and

(b) contain such particulars as are set out in an approved statement.

(4) If an owner of goods has been required to deliver documents or information in relation to the goods under subsection (2), a Collector must not grant an authority to deal with the goods unless the requirement has been complied with or withdrawn.

(5) An officer doing duty in relation to self-assessed clearance declarations may ask:

(a) the owner of goods covered by a self-assessed clearance declaration; or

(b) if another person made the declaration on behalf of the owner—the other person;

any questions relating to the goods.

(6) If a person has been asked a question in respect of goods under subsection (5), a Collector must not grant an authority to deal with the goods unless the question has been answered or withdrawn.

(7) If an officer doing duty in relation to self-assessed clearance declarations believes on reasonable grounds that the owner of goods covered by a self-assessed clearance declaration:

(a) has custody or control of documents relating to the goods that will assist the officer to verify the particulars shown in the declaration; or

(b) has or can obtain information that will so assist the officer;

the officer may require the owner to produce the documents or supply the information to the officer.

(8) If an owner of goods has been required to verify a matter in respect of the goods under subsection (7), a Collector must not grant an authority to deal with the goods unless the requirement has been

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complied with or withdrawn, or a security has been taken for compliance with the requirement.

(9) Subject to section 215, if a person delivers a commercial document to an officer doing duty in relation to self-assessed clearance declarations under this section, the officer must deal with the document and then return it to the person.

71AAAP Withdrawal of self-assessed clearance declarations

(1) A self-assessed clearance declaration may, at any time before the goods covered by the declaration are dealt with in accordance with an authority to deal, be withdrawn by either:

(a) the owner of the goods; or

(b) a person acting on behalf of the owner;

communicating the withdrawal electronically to an officer doing duty in relation to self-assessed clearance declarations.

(2) A person who makes a self-assessed clearance declaration in respect of goods may, at any time before the goods are dealt with in accordance with an authority to deal with the goods, change information in the declaration.

(3) If a person changes information in a self-assessed clearance declaration, the person is taken, at the time when the self-assessed clearance declaration advice is communicated in respect of the altered declaration, to have withdrawn the declaration as it previously stood.

(4) A withdrawal of a self-assessed clearance declaration has no effect during any period while a requirement under subsection 71AAAO(2) or (7) in respect of the goods to which the declaration relates has not been complied with.

(5) A withdrawal of a self-assessed clearance declaration is effected when it is, or is taken under section 71AAAT to have been, communicated to the Department.

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(6) If:

(a) a self-assessed clearance declaration is communicated to the Department; and

(b) any duty, fee, charge or tax in respect of goods covered by the declaration remains unpaid in respect of the goods for 30 days starting on:

(i) the day on which the self-assessed clearance declaration advice relating to the goods is communicated; or

(ii) if under subsection 132AA(1) the duty is payable by a time worked out under the regulations—the day on which that time occurs; and

(c) after that period ends, the Comptroller-General of Customs gives written notice to the owner of the goods requiring payment of the unpaid duty, fee, charge or tax (as appropriate) within a further period set out in the notice; and

(d) the unpaid duty, fee, charge or tax (as appropriate) is not paid within the further period;

the self-assessed clearance declaration is taken to have been withdrawn under subsection (1).

71AAAQ Further self-assessed clearance declaration not to be given while there is an existing self-assessed clearance declaration

(1) If goods are covered by a self-assessed clearance declaration, a person must not communicate a further self-assessed clearance declaration in respect of the goods or any part of the goods unless the first-mentioned self-assessed clearance declaration is withdrawn.

Penalty: 60 penalty units.

(2) An offence under subsection (1) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code.*

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71AAAR Effect of withdrawal of a self-assessed clearance declaration

(1) When a withdrawal of a self-assessed clearance declaration takes effect, any authority to deal with the goods to which the declaration relates is revoked.

(2) Despite the withdrawal:

(a) a person may be prosecuted under Division 4 of Part XIII, or an infringement notice may be given to a person, in respect of the self-assessed clearance declaration; and

(b) a penalty may be imposed on a person who is convicted of an offence in respect of the declaration;

as if it had not been withdrawn.

71AAAS Annotation of self-assessed clearance declaration by Collector for certain purposes not to constitute withdrawal

Any annotation of a self-assessed clearance declaration that is made by a Collector as a result of the acceptance by a Collector of an application for:

(a) a refund or rebate of all or part of the duty paid on goods covered by the declaration; or

(b) a remission of all or part of the duty payable on goods covered by the declaration;

is not taken to constitute a withdrawal of the declaration for the purposes of this Act.

71AAAT Manner and effect of communicating self-assessed clearance declarations to Department

(1) The Comptroller-General of Customs may approve different statements for electronic communications to be made in relation to different classes of goods for which a self-assessed clearance declaration is required.

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(2) For the purposes of this Act, a self-assessed clearance declaration is taken to have been communicated to the Department electronically:

(a) when a self-assessed clearance declaration advice is communicated by a Collector electronically to the person identified in the declaration as the person sending the declaration; or

(b) in the case of a self-assessed clearance declaration communicated to the Department together with a cargo report—when a Collector communicates electronically to the person who made the declaration an acknowledgment of the declaration.

(3) For the purposes of this Act, a withdrawal of a self-assessed clearance declaration is taken to have been communicated to the Department electronically when an acknowledgment of the withdrawal is communicated by a Collector electronically to the person identified in the withdrawal as the person sending the withdrawal.

Subdivision B—Import declarations

71A Making an import declaration

(1) An import declaration is a communication to the Department in accordance with this section of information about:

(a) goods to which section 68 applies; or

(b) warehoused goods;

that are intended to be entered for home consumption.

(2) An import declaration can be communicated by document or electronically.

(3) A documentary import declaration must be communicated to the Department:

(a) by giving or sending it to an officer doing duty in relation to import declarations at the place at which the goods are to be delivered for home consumption; or

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(b) by leaving it at a place:

(i) that has been allocated for lodgement of import declarations by notice published on the Department's website; and

(ii) that is where the goods are to be delivered for home consumption.

(5) If the information communicated to the Department in an import declaration relating to goods adequately identifies any permission (however it is described) that has been given for the importation of those goods, the identification of the permission in that information is taken, for the purposes of any law of the Commonwealth (including this Act), to be the production of the permission to an officer.

(6) However, subsection (5) does not affect any power of an officer, under this Act, to require the production of a permission referred to in that subsection.

(7) If:

(a) an import declaration is, or is taken under section 71L to have been, communicated to the Department; and

(b) before the time when the declaration is, or is so taken to have been, communicated to the Department, the goods to which the declaration relates:

(i) have been imported; or

(ii) for goods carried on board a ship or aircraft—have been brought to the first port or airport in Australia at which any goods are to be discharged; or

(iii) for goods that are a ship or aircraft and that are not carried on board a ship or aircraft—have arrived at a port or airport in Australia;

the goods are taken to have been entered for home consumption.

(8) If:

(a) an import declaration is, or is taken under section 71L to have been, communicated to the Department; and

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(b) at the time when the declaration is, or is so taken to have been, communicated to the Department, the goods to which the declaration relates:

(i) for goods carried on board a ship or aircraft—have not been brought to the first port or airport in Australia at which any goods are to be discharged; or

(ii) for goods that are a ship or aircraft and that are not carried on board a ship or aircraft—have not arrived at a port or airport in Australia;

the goods are taken to be entered for home consumption only when they are brought to that first port or airport in Australia or when they arrive at a port or airport in Australia (as the case requires).

71B Liability for import declaration processing charge

(1) When an import declaration (including an altered import declaration) in respect of goods to which section 68 applies (other than warehoused goods) is, or is taken to have been, communicated to the Department under section 71A, the owner of the goods becomes liable to pay import declaration processing charge in respect of the declaration.

(2) If a person who is an owner of goods pays import declaration processing charge in respect of an import declaration relating to particular goods, any other person who is an owner of those goods ceases to be liable to pay charge in respect of that declaration.

(3) If an import declaration is withdrawn under subsection 71F(1), or is taken, under subsection 71F(2) or (7), to have been withdrawn, before the issue of an authority to deal in respect of goods covered by the declaration, then, despite subsection (1), the owner of the goods is not liable to pay import declaration processing charge in respect of the declaration.

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Exemptions from charge

(4) The Minister may, by legislative instrument, determine one or more of the following:

(a) that specified persons are exempt from liability to pay import declaration processing charge;

(b) that persons are exempt from liability to pay import declaration processing charge in respect of import declarations relating to specified goods;

(c) that specified persons are exempt from liability to pay import declaration processing charge in respect of import declarations relating to specified goods.

(5) An instrument under subsection (4) takes effect on the day specified in the instrument (which may be earlier or later than the day the instrument is made).

Refund of charge

(6) If:

(a) a person pays an amount of import declaration processing charge on or after the day an instrument under subsection (4) takes effect; and

(b) the person is exempt from liability to pay that amount of charge because of that instrument;

the Comptroller-General of Customs must, on behalf of the Commonwealth, refund to the person an amount equal to the amount of charge paid.

Debt

(7) An amount of import declaration processing charge that a person is liable to pay:

(a) is a debt due by the person to the Commonwealth; and

(b) may be recovered by action in a court of competent jurisdiction.

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71BA Warehoused goods declaration fee

(1) An owner of warehoused goods who makes an import declaration in respect of the goods is liable to pay a fee (the ***warehoused goods declaration fee***) for the processing of the declaration.

(2) The amount of the warehoused goods declaration fee is:
   (a) if the import declaration is made electronically—$23.00 or, if another amount (not exceeding $34.00) is prescribed by the regulations, the amount so prescribed; or
   (b) if the import declaration is made by document—$63.00 or, if another amount (not exceeding $94.00) is prescribed by the regulations, the amount so prescribed.

(3) If a person who is an owner of warehoused goods pays the warehoused goods declaration fee for the processing of an import declaration in respect of the goods, any other person who is an owner of the goods ceases to be liable to pay the fee for the processing of the import declaration.

(4) In this section:

warehoused goods includes goods that, under section 100, may be dealt with as warehoused goods.

71C Authority to deal with goods in respect of which an import declaration has been made

(1) If an import declaration in respect of goods has been communicated to the Department, a Collector must give an import declaration advice, by document or electronically, in accordance with this section.

(2) An import declaration advice relating to goods entered by documentary import declaration:
   (a) must be given to the owner of the goods or be made available for collection by leaving it at a place that has been allocated for collection of such advices by notice published on the Department's website; and

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(b) must contain:

(i) a statement to the effect that the goods are cleared for home consumption; or

(ii) a statement that the goods are directed to be held in their current location or are directed for further examination.

(3) An import declaration advice relating to goods entered by an electronic import declaration:

(a) must refer to the number given by a Collector to identify the particular import declaration; and

(b) must be communicated electronically to the person who made the declaration; and

(c) must contain:

(i) a statement to the effect that the goods are cleared for home consumption; or

(ii) a statement that the goods are directed to be held in their current location or are directed for further examination.

(4) Subject to subsection (5), if:

(a) an import declaration advice is given or communicated under this section; and

(b) a payment is made of any duty, assessed GST, assessed luxury car tax, assessed wine tax, import declaration processing charge or other charge or fee payable at the time of entry of, or in respect of, the goods covered by the import declaration advice;

a Collector must:

(c) if the advice was given under subsection (2)—give the person to whom the advice was given an authority, in writing, to take the goods into home consumption; and

(d) if the advice was communicated electronically under subsection (3)—communicate electronically, to the person to whom the advice was communicated, an authority to take the goods into home consumption.

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(5) A Collector is not required to give or communicate an authority under subsection (4) while the goods concerned are subject to a direction referred to in subparagraph (2)(b)(ii) or (3)(c)(ii).

(6) A Collector must give an authority under subsection (4) in relation to goods covered by item 2 of the table in subsection 132AA(1) if subsection (4) would require a Collector to do so apart from paragraph (4)(b).

Note: Subsection 132AA(1) provides that import duty on goods covered by item 2 of the table in that subsection must be paid by a time worked out under the regulations.

(7) A Collector must give an authority under subsection (4) in relation to goods if:

(a) that subsection would require a Collector to do so apart from the fact that any or all of the following were not paid when duty on the goods was paid (or would have been payable if the goods had been subject to duty):

(i) the assessed GST payable on the taxable importation, if any, that is associated with the import of the goods;

(ii) if a taxable importation of a luxury car is associated with the import of the goods—the assessed luxury car tax payable on that taxable importation;

(iii) if a taxable dealing is associated with the import of the goods—the assessed wine tax payable on that dealing; and

(b) because of the following provisions, the unpaid assessed GST, assessed luxury car tax or assessed wine tax (as appropriate) was not payable until after duty on the goods was payable (or would have been payable if the goods had been subject to duty):

(i) paragraph 33-15(1)(b) of the GST Act;

(ii) paragraph 13-20(1)(b) of the Luxury Car Tax Act;

(iii) paragraph 23-5(1)(b) of the Wine Tax Act.

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(8) If goods are authorised to be taken into home consumption, the authority to deal, whether given by a document or electronically, must set out:

(a) any condition of the kind referred to in subsection (9) to which the authority is subject; and

(b) the date on which the authority is given; and

(c) such other information as is prescribed.

(9) An authority to deal with goods may be expressed to be subject to a condition that a specified permission for the goods to be dealt with (however it is described) be obtained under another law of the Commonwealth.

(10) If an authority to deal with goods is expressed to be subject to the condition that a specified permission be obtained, the authority is taken not to have been given until the permission has been obtained.

(11) An officer may, at any time before goods authorised to be taken into home consumption are so dealt with, cancel the authority:

(a) if the authority was given in respect of a documentary declaration, by:

(i) signing a notice stating that the authority is cancelled and setting out the reasons for the cancellation; and

(ii) serving a copy of the notice on the person who made the declaration or, if that person does not have possession of the goods, on the person who has possession of the goods; or

(b) if the authority was given in respect of an electronic declaration—by sending electronically, to the person who made the declaration, a message stating that the authority is cancelled and setting out the reasons for the cancellation.

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(12) If, at any time before goods authorised to be taken into home consumption are so dealt with, an officer has reasonable grounds to suspect that the goods were imported into Australia in contravention of any Customs-related law, the officer may suspend the authority for a specified period:

(a) if the authority was given in respect of a documentary declaration, by:

(i) signing a notice stating that the authority is so suspended and setting out the reasons for the suspension; and

(ii) serving a copy of the notice on the person who made the declaration or, if that person does not have possession of the goods, on the person who has possession of the goods; or

(b) if the authority was given in respect of an electronic declaration—by sending electronically, to the person who made the declaration, a message stating that the authority is so suspended and setting out the reasons for the suspension.

(13) If, during the suspension under subsection (12) of an authority, an officer becomes satisfied that there are no longer reasonable grounds to suspect that the goods were imported into Australia in contravention of a Customs-related law, the officer must revoke the suspension:

(a) if the authority was given in respect of a documentary declaration, by:

(i) signing a notice stating that the suspension is revoked; and

(ii) serving a copy of the notice on the person to whom the notice of the suspension was given; or

(b) if the authority was given in respect of an electronic declaration—by sending electronically, to the person to whom the message notifying the suspension was sent, a message stating that the suspension is revoked.

(14) A cancellation or suspension of an authority, or a revocation of a suspension of an authority, has effect from the time when the

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relevant notice is served or the relevant message is sent, as the case may be.

71D Visual examination in presence of officer

(1) If a person who is permitted or required to make an import declaration in respect of goods to which section 68 applies does not have the information to complete the declaration, the person may apply to the Department, by document or electronically, for permission to examine the goods in the presence of an officer.

(2) A documentary application must be communicated to the Department by giving it to an officer doing duty in relation to import declarations.

(3) When an application is given to an officer under subsection (2) or is sent electronically, an officer must, by writing or by message sent electronically, give the applicant permission to examine the goods on a day and at a place specified in the notice.

(4) A person who has received a permission may examine the goods in accordance with the permission in the presence of an officer.

71DA An officer may seek additional information

(1) Without limiting the information that may be required to be included in an import declaration, if an import declaration has been made in respect of goods, authority to deal with the goods may be refused until an officer doing duty in relation to import declarations:

(a) has verified particulars of the goods shown in the import declaration; or

(b) is satisfied of any other matter that may be relevant to the granting of an authority to deal.

(2) If an officer doing duty in relation to import declarations believes, on reasonable grounds, that the owner of goods to which an import declaration relates has custody or control of commercial documents, or has, or can obtain, information, relating to the goods

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that will assist the officer to determine whether this Act has been or is being complied with in respect of the goods, the officer may require the owner:

(a) to deliver to the officer the commercial documents in respect of the goods that are in the owner's custody or control (including any such documents that had previously been delivered to an officer and had been returned to the owner); or

(b) to deliver to the officer such information, in writing, relating to the goods (being information of a kind specified in the notice) as is within the knowledge of the owner or as the owner is reasonably able to obtain.

(3) A documentary requirement for the delivery of documents or information in respect of an import declaration must:

(a) be communicated to the person by whom, or on whose behalf, the declaration was communicated; and

(b) be in an approved form and contain such particulars as the form requires.

(4) An electronic requirement for the delivery of documents or information in respect of an import declaration must:

(a) be communicated electronically to the person who made the declaration; and

(b) contain such particulars as are set out in an approved statement.

(5) An officer doing duty in relation to import declarations may ask:

(a) the owner of goods in respect of which an import declaration has been made; and

(b) if another person made the declaration on behalf of the owner—that other person;

any questions relating to the goods.

(6) If an officer doing duty in relation to import declarations believes, on reasonable grounds, that the owner of goods to which an import declaration relates has custody or control of documents, or has, or can obtain, information, relating to the goods that will assist the

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officer to verify the particulars shown in the import declaration, the officer may require the owner to produce the documents or supply the information to the officer.

(7) If:

(a) the owner of goods has been required to deliver documents or information in relation to the goods under subsection (2); or

(b) the owner of, or the person making an import declaration in respect of, goods has been asked a question in respect of the goods under subsection (5); or

(c) the owner of goods has been required to verify a matter in respect of the goods under subsection (6);

authority to deal with the relevant goods in accordance with the declaration must not be granted unless:

(d) the requirement referred to in paragraph (a) has been complied with or withdrawn; or

(e) the question referred to in paragraph (b) has been answered or withdrawn; or

(f) the requirement referred to in paragraph (c) has been complied with or withdrawn, or a security has been taken for compliance with the requirement;

as the case requires.

(8) Subject to section 215, if a person delivers a commercial document to an officer doing duty in relation to import declarations under this section, the officer must deal with the document and then return it to the person.

Subdivision D—Warehouse declarations

71DG Subdivision does not apply to tobacco products

This Subdivision does not apply to tobacco products.

Note: Tobacco products cannot be warehoused (see subsections 68(2) and (3)).

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71DH Making a warehouse declaration

(1) A warehouse declaration is a communication to the Department in accordance with this section of information about goods to which section 68 applies that are intended to be entered for warehousing.

(2) A warehouse declaration may be communicated by document or electronically.

(3) A documentary warehouse declaration must be communicated to the Department:

(a) by giving or sending it to an officer doing duty in relation to warehouse declarations at the place at which the goods are to be delivered for warehousing; or

(b) by leaving it at a place:

(i) that has been allocated for lodgement of warehouse declarations by notice published on the Department's website; and

(ii) that is where the goods are to be delivered for warehousing.

(5) If the information communicated to the Department in a warehouse declaration relating to goods adequately identifies any permission (however it is described) that has been given for the importation of those goods, the identification of the permission in that information is taken, for the purposes of any law of the Commonwealth (including this Act), to be the production of the permission to an officer.

(6) However, subsection (5) does not affect any power of an officer, under this Act, to require the production of a permission referred to in that subsection.

(7) If:

(a) a warehouse declaration is, or is taken under section 71L to have been, communicated to the Department; and

(b) before the time when the declaration is, or is so taken to have been, communicated to the Department, the goods to which the declaration relates have been imported or have been

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brought to the first port or airport in Australia at which any goods are to be discharged;

the goods are taken to have been entered for warehousing.

(8) If:

(a) a warehouse declaration is, or is taken under section 71L to have been, communicated to the Department; and

(b) at the time when the warehouse declaration is, or is so taken to have been, communicated to the Department, the goods to which the declaration relates have not been brought to the first port or airport in Australia at which any goods are to be discharged;

the goods are taken to be entered for warehousing only when they are brought to that port or airport.

71DI Liability for warehouse declaration processing charge

(1) When a warehouse declaration (including an altered warehouse declaration) in respect of goods is, or is taken to have been, communicated to the Department under section 71DH, the owner of the goods becomes liable to pay warehouse declaration processing charge in respect of the declaration.

(2) If a person who is an owner of goods pays warehouse declaration processing charge in respect of a warehouse declaration relating to particular goods, any other person who is an owner of those goods ceases to be liable to pay charge in respect of that declaration.

(3) If a warehouse declaration is withdrawn under subsection 71F(1), or is taken, under subsection 71F(2) or (7), to have been withdrawn, before the issue of an authority to deal in respect of goods covered by the declaration, then, despite subsection (1), the owner of the goods is not liable to pay warehouse declaration processing charge in respect of the declaration.

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Debt

(4) An amount of warehouse declaration processing charge that a person is liable to pay:

(a) is a debt due by the person to the Commonwealth; and

(b) may be recovered by action in a court of competent jurisdiction.

71DJ Authority to deal with goods in respect of which a warehouse declaration has been made

(1) If a warehouse declaration in respect of goods has been communicated to the Department, a Collector must give a warehouse declaration advice, by document or electronically, in accordance with this section.

(2) A warehouse declaration advice relating to goods entered by documentary warehouse declaration:

(a) must be given to the owner of the goods or be made available for collection by leaving it at a place that has been allocated for collection of such advices by notice published on the Department's website; and

(b) must contain:

(i) a statement to the effect that the goods are cleared for warehousing; or

(ii) a statement that the goods are directed to be held in their current location or are directed for further examination.

(3) A warehouse declaration advice relating to goods entered by an electronic warehouse declaration:

(a) must refer to the number given by a Collector to identify the particular warehouse declaration; and

(b) must be communicated electronically to the person who made the declaration; and

(c) must contain:

(i) a statement to the effect that the goods are cleared for warehousing; or

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(ii) a statement that the goods are directed to be held in their current location or are directed for further examination.

(4) Subject to subsection (5), if:

(a) a warehouse declaration advice is given or communicated under this section; and

(b) a payment is made of any warehouse declaration processing charge or other charge or fee payable at the time of entry of, or in respect of, the goods covered by the warehouse declaration advice;

a Collector must:

(c) if the advice was given under subsection (2)—give the person to whom the advice was given an authority, in writing, to take the goods into warehousing; and

(d) if the advice was communicated electronically under subsection (3)—communicate electronically, to the person to whom the advice was communicated, an authority to take the goods into warehousing.

(5) A Collector is not required to give or communicate an authority under subsection (4) while the goods concerned are subject to a direction referred to in subparagraph (2)(b)(ii) or (3)(c)(ii).

(6) If goods are authorised to be taken into warehousing, the authority to deal, whether given by a document or electronically, must set out:

(a) any condition of the kind referred to in subsection (7) to which the authority is subject; and

(b) the date on which the authority is given; and

(c) such other information as is prescribed.

(7) An authority to deal with goods may be expressed to be subject to a condition that a specified permission for the goods to be dealt with (however it is described) be obtained under another law of the Commonwealth.

(8) If an authority to deal with goods is expressed to be subject to the condition that a specified permission be obtained, the authority is

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taken not to have been given until the permission has been obtained.

(9) An officer may, at any time before goods authorised to be taken into warehousing are so dealt with, cancel the authority:

(a) if the authority was given in respect of a documentary declaration, by:

(i) signing a notice stating that the authority is cancelled and setting out the reasons for the cancellation; and

(ii) serving a copy of the notice on the person who made the declaration or, if that person does not have possession of the goods, on the person who has possession of the goods; or

(b) if the authority was given in respect of an electronic declaration—by sending electronically, to the person who made the declaration, a message stating that the authority is cancelled and setting out the reasons for the cancellation.

(10) If, at any time before goods authorised to be taken into warehousing are so dealt with, an officer has reasonable grounds to suspect that the goods were imported into Australia in contravention of any Customs-related law, the officer may suspend the authority for a specified period:

(a) if the authority was given in respect of a documentary declaration, by:

(i) signing a notice stating that the authority is so suspended and setting out the reasons for the suspension; and

(ii) serving a copy of the notice on the person who made the declaration or, if that person does not have possession of the goods, on the person who has possession of the goods; or

(b) if the authority was given in respect of an electronic declaration—by sending electronically, to the person who made the declaration, a message stating that the authority is so suspended and setting out the reasons for the suspension.

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(11) If, during the suspension under subsection (10) of an authority, an officer becomes satisfied that there are no longer reasonable grounds to suspect that the goods were imported into Australia in contravention of a Customs-related law, the officer must revoke the suspension:

(a) if the authority was given in respect of a documentary declaration, by:

(i) signing a notice stating that the suspension is revoked; and

(ii) serving a copy of the notice on the person to whom the notice of the suspension was given; or

(b) if the authority was given in respect of an electronic declaration—by sending electronically, to the person to whom the message notifying the suspension was sent, a message stating that the suspension is revoked.

(12) A cancellation or suspension of an authority, or a revocation of a suspension of an authority, has effect from the time when the relevant notice is served or the relevant message is sent, as the case may be.

71DK Visual examination in presence of officer

(1) If a person who is permitted or required to make a warehouse declaration in respect of goods to which section 68 applies does not have the information to complete the declaration, the person may apply to the Department, by document or electronically, for permission to examine the goods in the presence of an officer.

(2) A documentary application must be communicated to the Department by giving it to an officer doing duty in relation to warehouse declarations.

(3) When an application is given to an officer under subsection (2) or is sent electronically, an officer must, by writing or by message sent electronically, give the applicant permission to examine the goods on a day and at a place specified in the notice.

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(4) A person who has received a permission may examine the goods in accordance with the permission in the presence of an officer.

71DL An officer may seek additional information

(1) Without limiting the information that may be required to be included in a warehouse declaration, if a warehouse declaration has been made in respect of goods, authority to deal with the goods may be refused until an officer doing duty in relation to warehouse declarations:

(a) has verified particulars of the goods shown in the warehouse declaration; or

(b) is satisfied of any other matter that may be relevant to the granting of an authority to deal.

(2) If an officer doing duty in relation to warehouse declarations believes, on reasonable grounds, that the owner of goods to which a warehouse declaration relates has custody or control of commercial documents, or has, or can obtain, information, relating to the goods that will assist the officer to determine whether this Act has been or is being complied with in respect of the goods, the officer may require the owner:

(a) to deliver to the officer the commercial documents in respect of the goods that are in the owner's custody or control (including any such documents that had previously been delivered to an officer and had been returned to the owner); or

(b) to deliver to the officer such information, in writing, relating to the goods (being information of a kind specified in the notice) as is within the knowledge of the owner or as the owner is reasonably able to obtain.

(3) A documentary requirement for the delivery of documents or information in respect of a warehouse declaration must:

(a) be communicated to the person by whom, or on whose behalf, the declaration was communicated; and

(b) be in an approved form and contain such particulars as the form requires.

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(4) An electronic requirement for the delivery of documents or information in respect of a warehouse declaration must:

(a) be communicated electronically to the person who made the declaration; and

(b) contain such particulars as are set out in an approved statement.

(5) An officer doing duty in relation to warehouse declarations may ask:

(a) the owner of goods in respect of which a warehouse declaration has been made; and

(b) if another person made the declaration on behalf of the owner—that other person;

any questions relating to the goods.

(6) If an officer doing duty in relation to warehouse declarations believes, on reasonable grounds, that the owner of goods to which a warehouse declaration relates has custody or control of commercial documents, or has, or can obtain, information, relating to the goods that will assist the officer to verify the particulars shown in the warehouse declaration, the officer may require the owner to produce the documents or supply the information to the officer.

(7) If:

(a) the owner of goods has been required to deliver documents or information in relation to the goods under subsection (2); or

(b) the owner of, or the person making a warehouse declaration in respect of, goods has been asked a question in respect of the goods under subsection (5); or

(c) the owner of goods has been required to verify a matter in respect of the goods under subsection (6);

authority to deal with the relevant goods in accordance with the declaration must not be granted unless:

(d) the requirement referred to in paragraph (a) has been complied with or withdrawn; or

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(e) the question referred to in paragraph (b) has been answered or withdrawn; or

(f) the requirement referred to in paragraph (c) has been complied with or withdrawn, or a security has been taken for compliance with the requirement;

as the case requires.

(8) Subject to section 215, if a person delivers a commercial document to an officer doing duty in relation to warehouse declarations under this section, the officer must deal with the document and then return it to the person.

Subdivision E—General

71E Movement permissions

Movement permissions—movement to specified places

(1) Where particular goods, or goods of a particular kind, are, or after their importation will be, subject to customs control, application may be made to the Department, by document or electronically, in accordance with this section, for permission to move those goods, or goods of that kind, or to move them after their importation, to a place specified in the application.

(2) A documentary movement application must:

(a) be made by the owner of the goods concerned; and

(b) be communicated to the Department by giving it to an officer doing duty in relation to import entries or to the movement of goods subject to customs control.

(2A) If:

(a) the goods are goods to which section 68 applies; and

(b) the goods have not been entered for home consumption or warehousing; and

(c) subsection (2C) does not apply to the goods;

a movement application may be made only by:

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(d) for goods carried on board a ship or aircraft—the operator of the ship or aircraft, a cargo reporter in relation to the goods, or a stevedore or depot operator who has, or intends to take, possession of the goods; or

(e) for goods that are a ship or aircraft and that are not carried on board a ship or aircraft—the owner of the goods.

(2B) A movement application under subsection (2A) must be made electronically.

(2C) This subsection applies to goods if:

(a) the goods are:

(i) accompanied by, and described in, temporary admission papers issued in accordance with an agreement between Australia and one or more other countries that provides for the temporary importation of goods without payment of duty; or

(ii) subject to an application under section 162AA for permission to take delivery of goods; and

(b) neither of the following applies:

(i) the Comptroller-General of Customs has refused to accept a security or undertaking under section 162A in relation to the goods;

(ii) a Collector has refused to grant permission under section 162A to take delivery of the goods.

(3) If a movement application is duly communicated to the Department, subsections (3AA) and (3AB) apply.

(3AA) An officer may direct the applicant to ensure that the goods are held in the place where they are currently located until the decision is made on the application.

(3AB) If a direction is not given under subsection (3AA), or a reasonable period has elapsed since the giving of such a direction to enable the making of an informed decision on the application, an officer must:

(a) if the application is a document movement application—by notice in writing to the applicant; or

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(b) if the application is an electronic movement application—by sending a message electronically to the applicant;

do either of the following:

(c) give the applicant permission to move the goods to which the application relates in accordance with the application either unconditionally or subject to such conditions as are specified in the notice or message;

(d) refuse the application and set out in the notice or message the reasons for the refusal.

Movement permissions—excise-equivalent warehouse licences

(3AC) The Comptroller-General of Customs may give permission in writing to the holder of an excise-equivalent warehouse licence to remove excise-equivalent goods from the warehouse or warehouses covered by the licence to any other warehouse at which excise-equivalent goods of the kind being removed are authorised to be warehoused (whether by that or any other excise-equivalent warehouse licence).

(3AD) The Comptroller-General of Customs:

(a) must give a permission under subsection (3AC) to the holder of an excise-equivalent warehouse licence:

(i) on the grant of the licence if the licence covers more than one warehouse; or

(ii) for a licence that when granted covered only one warehouse—if the Comptroller-General varies the licence to cover more than one warehouse; and

(b) otherwise, may give a permission under that subsection on application by the licence holder.

(3AE) A permission given under subsection (3AC) has effect subject to any conditions that apply to the licence that covers the warehouse from which the goods are removed.

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Effect of movement permissions

(3AF) A permission given under paragraph (3AB)(c) or subsection (3AC) is, until revoked, authority for the person to whom the permission is given to move goods to which the permission relates accordingly.

Forfeiture of goods moved otherwise than as permitted

(3B) If a person moves goods otherwise than in accordance with the requirement of a permission to which the goods relate, the movement of the goods is, for the purposes of paragraph 229(1)(g), taken not to have been authorised by this Act.

Certain cargo reports taken to be movement applications

(3C) If a cargo report states that goods specified in the report are proposed to be moved from a Customs place to another Customs place, then, despite section 71L, the statement is taken to be a movement application in respect of the goods duly made under this section.

(3D) In subsection (3C):

Customs place has the meaning given by subsection 183UA(1).

Directions to move goods to a warehouse

(4) Where goods are moved to a place other than a warehouse in accordance with a permission under paragraph (3AB)(c), an officer of Customs may, at any time while the goods remain under customs control, direct in writing that they be moved from that place to a warehouse specified in the direction within a period specified in the direction.

(5) If goods are not moved in accordance with such a direction, an officer of Customs may arrange for the goods to be moved to the warehouse specified in the direction or to any other warehouse.

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(6) Where an officer of Customs has arranged for goods to be moved to a warehouse, the Commonwealth has a lien on the goods for any expenses incurred in connection with their removal to the warehouse and for any warehouse rent and charges incurred in relation to the goods.

71F Withdrawal of import entries

(1) At any time after an import entry is communicated to the Department and before the goods to which it relates are dealt with in accordance with the entry, a withdrawal of the entry may be communicated to the Department by document or electronically.

(2) If, at any time after a person has communicated an import entry to the Department and before the goods are dealt with in accordance with the entry, the person changes information included in the entry, the person is taken, at the time when the import entry advice is given or communicated in respect of the altered entry, to have withdrawn the entry as it previously stood.

(3) A documentary withdrawal of an import entry must:
  (a) be communicated by the person by whom, or on whose behalf, the entry was communicated; and
  (b) be communicated to the Department by giving it to an officer doing duty in relation to import entries.

(5) A withdrawal of an import entry has no effect during any period while a requirement under subsection 71DA(2) or (6) or 71DL(2) or (6) in respect of the goods to which the entry relates has not been complied with.

(6) A withdrawal of an import entry is effected when it is, or is taken under section 71L to have been, communicated to the Department.

(7) If:
  (a) an import entry is communicated to the Department; and
  (b) any duty, fee, charge or tax in respect of goods covered by the entry remains unpaid in respect of the goods concerned for 30 days starting on:

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(i) the day on which the import entry advice relating to the goods is communicated; or

(ii) if under subsection 132AA(1) the duty is payable by a time worked out under the regulations—the day on which that time occurs; and

(c) after that period ends, the Comptroller-General of Customs gives written notice to the owner of the goods requiring payment of the unpaid duty, fee, charge or tax (as appropriate) within a further period set out in the notice; and

(d) the unpaid duty, fee, charge or tax (as appropriate) is not paid within the further period;

the import entry is taken to have been withdrawn under subsection (1).

71G Goods not to be entered while an entry is outstanding

(1) If goods have been entered for home consumption under subsection 68(2) or (3), a person must not communicate a further import declaration or a warehouse declaration in respect of the goods or any part of the goods unless the import declaration that resulted in the goods being entered for home consumption is withdrawn.

Penalty: 60 penalty units.

(2) An offence for a contravention of subsection (1) is an offence of strict liability.

71H Effect of withdrawal

(1) When a withdrawal of an import entry in respect of goods takes effect, any authority to deal with the goods is revoked.

(2) Despite the withdrawal:

(a) a person may be prosecuted under Division 4 of Part XIII, or an infringement notice may be given to a person, in respect of the import entry; and

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(b) a penalty may be imposed on a person who is convicted of an offence in respect of the import entry;

as if it had not been withdrawn.

(3) The withdrawal of a documentary import declaration or of a documentary warehouse declaration does not entitle the person who communicated it to have it returned.

71J Annotation of import entry by Collector for certain purposes not to constitute withdrawal

Any annotation of an import entry that is made by a Collector as a result of the acceptance by a Collector of an application for a refund or rebate of all or a part of the duty paid, or for a remission of all or part of the duty payable, on goods covered by the entry, is not to be taken to constitute a withdrawal of the entry for the purposes of this Act.

71K Manner of communicating with Department by document

(1) An import entry, a withdrawal of an import entry, a visual examination application, a movement application, or a return for the purposes of subsection 69(8) or 70(7) or section 105C, that is communicated to the Department by document:

(a) must be in an approved form; and

(b) must contain such information as the approved form requires; and

(c) must be signed in the manner indicated in the approved form.

(2) The Comptroller-General of Customs may approve different forms for documentary communications to be made in different circumstances or by different classes of persons.

71L Manner and effect of communicating with Department electronically

(1) An import entry, a withdrawal of an import entry, a visual examination application, a movement application, or a return for

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the purposes of subsection 69(8) or 70(7) or section 105C that is communicated to the Department electronically must communicate such information as is set out in an approved statement.

(2) The Comptroller-General of Customs may approve different statements for electronic communications to be made in different circumstances or by different classes of persons.

(3) For the purposes of this Act, an import entry, a withdrawal of an import entry or a return for the purposes of subsection 69(8) or 70(7) or section 105C, is taken to have been communicated to the Department electronically when an import entry advice, or an acknowledgment of the withdrawal or the return, is communicated by a Collector electronically to the person identified in the import entry, withdrawal or return as the person sending it.

(4) A movement application that is communicated to the Department electronically must communicate such information as is set out in an approved statement.

(5) For the purposes of this Act, a movement application is taken to have been communicated to the Department electronically when an acknowledgment of the application is communicated by a Collector electronically to the person identified in the application as the person sending it.

71M Requirements for communicating to Department electronically

A communication that is required or permitted by this Division to be made to the Department electronically must:

(a) be signed by the person who makes it (see paragraph 126DA(1)(c)); and

(b) otherwise meet the information technology requirements determined under section 126DA.

72 Failure to make entries

(1) Where:

(a) imported goods are required to be entered; and

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(b) an entry is not made in respect of the goods within such period commencing on the importation of the goods as is prescribed, or any further period allowed by a Collector;

a Collector may cause or permit the goods to be removed to a warehouse or such other place of security as the Collector directs or permits.

(2) Where goods that have been, or may be, removed under subsection (1) are live animals or are of a perishable or hazardous nature and a Collector considers it expedient to do so without delay, the Collector may sell, or otherwise dispose of, the goods.

(3) A Collector has a lien on goods for any expenses incurred by him or her in connection with their removal under subsection (1) and for any warehouse rent or similar charges incurred in relation to the goods.

(4) Where:

(a) goods (other than goods to which subsection (2) applies) have been, or may be, removed under subsection (1); and

(b) all things that are required to be done to enable authority to deal with the goods to be given, including the making of an entry in respect of the goods, are not done within:

(i) if the goods have been removed—such period as is prescribed commencing on the removal of the goods; or

(ii) if the goods have not been removed—such period as is prescribed commencing on the expiration of the period applicable under paragraph (1)(b) in relation to the goods;

a Collector may sell, or otherwise dispose of, the goods.

(5) A period prescribed for the purposes of subsection (1) or subparagraph (4)(b)(i) or (ii) may be a period prescribed in relation to all goods or in relation to goods in a class of goods.

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73 Breaking bulk

(1) Subject to subsections (2B) and (3), a person shall not break the bulk cargo of a ship arriving in, or on a voyage to, Australia while the ship is within waters of the sea within the outer limits of the territorial sea of Australia, including such waters within the limits of a State or an internal Territory.

Penalty: 250 penalty units.

(2) Subject to subsections (2B) and (3), a person shall not break the bulk cargo of an aircraft arriving in, or on a flight to, Australia while the aircraft is:

(a) flying over Australia; or

(b) in, or flying over, waters of the sea within the outer limits of the territorial sea of Australia.

Penalty: 250 penalty units.

(2A) Subsections (1) and (2) are offences of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(2B) Subsections (1) and (2) do not apply if the person has the permission of a Collector.

(3) Subsections (1) and (2) do not apply in respect of goods authority to deal with which has been given under section 71B.

74 Officer may give directions as to storage or movement of certain goods

(1) If an officer has reasonable grounds to suspect that a report of the cargo made in respect of a ship or aircraft:

(a) has not included particular goods that are intended to be unloaded from the ship or aircraft at a port or airport in Australia; or

(b) has incorrectly described particular goods;

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the officer may give written directions to the cargo reporter as to how and where the goods are to be stored, and as to the extent (if any) to which the goods may be moved.

(2) An officer who has given a written direction under subsection (1) may, by writing, cancel the direction if the officer is satisfied that a report of the cargo made in respect of the ship or aircraft has included, or correctly described, as the case may be, the goods.

(3) If an officer has reasonable grounds to suspect that particular goods in the cargo that is to be, or has been, unloaded from a ship or aircraft are prohibited goods, the officer may give written directions to:

(a) the cargo reporter; or

(b) the stevedore or depot operator whose particulars have been communicated to the Department by the operator of the ship or aircraft under section 64AAC;

as to how and where the goods are to be stored, and as to the extent (if any) to which the goods may be moved.

(4) An officer who has given a written direction under subsection (3) may, by writing, cancel the direction if the officer is satisfied that the cargo does not contain prohibited goods.

(5) A person who intentionally contravenes a direction given to the person under subsection (1) or (3) commits an offence punishable, on conviction, by a penalty not exceeding 120 penalty units.

(6) A person who contravenes a direction given to the person under subsection (1) or (3) commits an offence punishable, on conviction, by a penalty not exceeding 60 penalty units.

(7) An offence against subsection (6) is an offence of strict liability.

76 Goods landed at ship's risk etc.

Goods unshipped shall be placed by and at the expense of the master or owner of the ship or the pilot or owner of the aircraft from which they were unshipped in a place of security approved by

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the Collector, and shall until lawfully removed therefrom be at the risk of the master or owner of the ship or the pilot or owner of the aircraft as if they had not been unshipped.

77 Repacking on wharf

Any goods may by authority be repacked or skipped on the wharf.

77AA Disclosure of information to cargo reporter or owner of goods

(1) If a cargo reporter in relation to goods that are on a ship or aircraft on a voyage or flight to a place in Australia requests a Collector to inform the cargo reporter:

(a) whether a report of the impending arrival of the ship or aircraft has been made and, if so, the estimated time of arrival specified in the report; or

(b) whether a report of the arrival of the ship or aircraft has been made and, if so, the time of arrival;

a Collector may comply with the request.

(2) If goods have been entered for home consumption or warehousing, a Collector may, at the request of the owner of the goods, inform the owner of the stage reached by a Collector in deciding whether or not to give an authority to deal with the goods.

(3) If a movement application has been made in respect of goods, a Collector may, at the request of the owner of the goods, inform the owner of the stage reached by a Collector in its consideration of the application.

(4) If goods have been entered for export by the making of an export declaration, a Collector may, at the request of the owner of the goods, inform the owner of the stage reached by a Collector in deciding whether or not to give an authority to deal with the goods.

(5) If a submanifest in respect of goods has been sent to the Department under section 117A, a Collector may, at the request of the owner of the goods, inform the owner of the stage reached by a

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Collector in preparing to give a submanifest number in respect of the submanifest.

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Division 5—Detention of goods in the public interest

77EA Minister may order goods to be detained

(1) The Minister may, if the Minister considers that it is in the public interest to do so, order a Collector to detain the goods specified in the Minister's order.

(2) At the time an order is made to detain goods:
  (a) the goods must be goods the importation of which is restricted by the *Customs (Prohibited Imports) Regulations 1956*; and
  (b) the goods must have been imported into Australia; and
  (c) the importation of the goods must not breach this Act; and
  (d) the goods must not have been:
    (i) delivered into home consumption in accordance with an authority to deal with the goods; or
    (ii) exported from Australia.

(3) An order to detain goods has effect despite any provision of this Act to the contrary.

77EB Notice to person whose goods are detained

If the Minister orders goods to be detained, the Minister must, as soon as practicable after making the order, give written notice of the order to:
  (a) the owner of the goods; or
  (b) if the owner of the goods cannot be identified after reasonable inquiry—the person in whose possession or under whose control the goods were at the time the order was given.

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77EC Detention of goods by Collector

If the Minister orders a Collector to detain goods under section 77EA, a Collector must:

(a) move the goods to a place that is approved by a Collector for the purpose of detaining goods under this Subdivision (unless the goods are already in such a place); and

(b) detain the goods in that place until the goods are dealt with under section 77ED, 77EE or 77EF.

77ED Minister may authorise delivery of detained goods into home consumption

(1) On application by the owner of goods detained under section 77EC, the Minister may authorise the delivery of the goods, or so much of the goods as the Minister specifies in the authority, into home consumption.

(2) An authority is subject to any conditions, or other requirements, specified in the authority in relation to the goods.

(3) An application under subsection (1) must be made before the end of the period of 12 months after the date of the order.

(4) The owner of goods authorised to be taken into home consumption under subsection (1) must comply with any other provision of this Act in relation to taking goods into home consumption.

77EE Minister may authorise export of detained goods

(1) On application by the owner of goods detained under section 77EC, the Minister may authorise the exportation of the goods, or so much of the goods as the Minister specifies in the authority, from Australia.

(2) An authority is subject to any conditions, or other requirements, specified in the authority in relation to the goods.

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(3) An application under subsection (1) must be made before the end of the period of 12 months after the date of the order.

(4) The owner of goods authorised to be exported under subsection (1) must comply with any other provision of this Act in relation to exporting goods.

77EF When goods have been detained for 12 months

Goods to be exported or disposed of

(1) This section applies if, at the end of the period of 12 months after an order to detain goods is given, some or all of the goods (the ***remaining goods***) have not been:

(a) delivered into home consumption in accordance with an authority given under section 77ED; or

(b) exported in accordance with an authority given under section 77EE.

(2) The Minister may grant an authority to export the remaining goods from Australia.

(3) The owner of goods authorised to be exported under subsection (2) must comply with any other provision of this Act in relation to exporting goods.

(4) If:

(a) the Minister does not grant an authority to export the remaining goods from Australia within 1 month of the end of the period of 12 months after the date of the order; or

(b) the remaining goods have not been exported from Australia within 2 months after the date of an authority to export the goods under subsection (2);

the Minister must authorise a Collector to dispose of the goods in the manner the Minister considers appropriate.

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Compensation for detained goods

(5) Nothing in this section prevents a person from seeking compensation in relation to the remaining goods, or other goods ordered to be detained under this Subdivision, in accordance with section 4AB.

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Part IVA—Depots

77F Interpretation

(1) In this Part:

Australia Post means the Australian Postal Corporation.

depot, in relation to a depot licence, means the place to which the licence relates.

depot licence means a licence granted under section 77G and includes such a licence that has been renewed under section 77T.

depot licence application charge means the depot licence application charge imposed by the *Customs Licensing Charges Act 1997* and payable as set out in section 77H.

depot licence charge means the depot licence charge imposed by the *Customs Licensing Charges Act 1997* and payable as set out in section 77U.

depot licence variation charge means the depot licence variation charge imposed by the *Customs Licensing Charges Act 1997* and payable as set out in section 77LA of this Act.

International Mail Centre means a place approved in an instrument under subsection (1A) as a place for the examination of international mail.

place includes an area, a building and a part of a building.

receptacle means a shipping or airline container, a pallet or other similar article.

(1A) For the purposes of the definition of ***International Mail Centre*** in subsection (1), the Comptroller-General of Customs may, by writing, approve a place as a place for the examination of international mail.

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(2) A reference in this Part to a conviction of a person of an offence includes a reference to the making of an order under section 19B of the *Crimes Act 1914*, or under a corresponding provision of a law of a State, a Territory or a foreign country, in relation to a person in respect of an offence.

Note: Section 19B of the *Crimes Act 1914* empowers a court that has found a person to have committed an offence to take action without proceeding to record a conviction.

(3) Nothing in this Part affects the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions relieving persons from requirements to disclose spent convictions).

(4) For the purposes of this Part, a person is taken to participate in the management or control of a depot if:

(a) the person has authority:

(i) to direct the operations, or an important or substantial part of the operations, of the depot; or

(ii) to direct activities in the depot; or

(iii) to remove goods from the depot; or

(b) the person has authority to direct a person who has authority referred to in paragraph (a) in the exercise of that authority.

77G Depot licences

(1) Subject to this Part, the Comptroller-General of Customs may, on an application made by a person or partnership in accordance with section 77H, grant the person or partnership a licence in writing, to be known as a depot licence, to use a place described in the licence for any one or more of the following purposes:

(a) the holding of imported goods that are subject to customs control under section 30;

(b) the unpacking of goods referred to in paragraph (a) from receptacles;

(c) the holding of goods for export that are subject to customs control under section 30;

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(d) the packing of goods referred to in paragraph (c) into receptacles;
(e) the examination of goods referred to in paragraph (a) or (c) by officers of Customs.

(2) A depot licence may be granted:
(a) in relation to all the purposes referred to in subsection (1) or only to a particular purpose or purposes referred to in subsection (1) as specified in the licence; and
(b) in relation to goods generally or to goods of a specified class or classes as specified in the licence.

77H Application for a depot licence

(1) An application for a depot licence to cover a place must be made by a person or partnership who would occupy and control the place as a depot if the licence were granted.

(1A) An application under subsection (1) may be made by document or electronically.

(2) A documentary application must:
(a) be in writing; and
(b) be in an approved form; and
(c) contain such information as the form requires; and
(ca) be accompanied by any documents required by the form; and
(d) be signed in the manner indicated in the form; and
(e) subject to subsection (3), be accompanied by a depot licence application charge.

(2A) An electronic application must:
(a) communicate such information as is set out in an approved statement; and
(b) be accompanied by any documents required by the approved statement; and
(c) subject to subsection (3), be accompanied by the depot licence application charge.

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(3) If Australia Post makes an application under this section for the whole or a part of an International Mail Centre to be covered by a depot licence, it is not liable to pay the depot licence application charge under subsection (2) or (2A).

77J Comptroller-General of Customs may require applicant to supply further information or documents

(1) The Comptroller-General of Customs may, by written notice given to an applicant for a depot licence, require the applicant to supply further information or documents in relation to the application within the period that is specified in the notice.

Note: See section 77ZA for the ways in which the notice may be given to the applicant.

(2) The Comptroller-General of Customs may extend the specified period if the applicant, in writing, requests the Comptroller-General of Customs to do so.

(3) If the applicant:

(a) fails to supply the further information or documents within the specified period, or that period as extended under subsection (2); but

(b) supplies the information or documents at a subsequent time;

the Comptroller-General of Customs must not take the information or documents into account in determining whether to grant the depot licence.

77K Requirements for grant of depot licence

(1) The Comptroller-General of Customs must not grant a depot licence if, in his or her opinion:

(a) if the applicant is a natural person:

(i) the applicant is not a fit and proper person to hold a depot licence; or

(ii) the applicant would not be in a position to occupy and control the proposed depot if the licence were granted; or

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(iii) a person who would participate in the management or control of, or in the operations carried out at, the proposed depot (whether or not the person would be present at the proposed depot) is not a fit and proper person to so participate; or

(b) if the applicant is a partnership:

(i) any of the partners is not a fit and proper person to be a member of a partnership holding a depot licence; or

(ii) none of the partners in the partnership would be in a position to occupy and control the proposed depot if the licence were granted; or

(iii) a person who would participate in the management or control of, or in the operations carried out at, the proposed depot (whether or not the person would be present at the proposed depot) is not a fit and proper person to so participate; or

(c) if the applicant is a company:

(i) any of the directors of the company is not a fit and proper person to be a director of a company holding a depot licence; or

(ii) the company would not be in a position to occupy and control the proposed depot if the licence were granted; or

(iii) a person who would participate in the management or control of, or in the operations carried out at, the proposed depot (whether or not the person would be present at the proposed depot) is not a fit and proper person to so participate; or

(iv) the company is not a fit and proper company to hold a depot licence; or

(h) the physical security of the proposed depot is not adequate having regard to:

(i) the nature of the place; or

(ii) the procedures and methods that would be adopted by the applicant to ensure the security of goods in the proposed depot if the licence were granted; or

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(i) the records that would be kept in relation to the proposed depot would not be suitable to enable an officer of Customs adequately to audit those records; or

(j) it is inappropriate in all the circumstances to grant the licence, having regard to the matters covered by subsection (3A).

(2) The Comptroller-General of Customs must, in deciding whether a person is a fit and proper person for the purposes of paragraph (1)(a), (b) or (c) (other than subparagraph (1)(c)(iv)), have regard to:

(a) any conviction of the person of an offence against this Act committed within the 10 years immediately before that decision; and

(b) any conviction of the person of an offence against another law of the Commonwealth, or a law of a State or of a Territory, that is punishable by imprisonment for one year or longer, being an offence committed within the 10 years immediately before that decision; and

(c) whether the person is an insolvent under administration; and

(d) any misleading statement made under section 77H or 77J in relation to the application for the licence by or in relation to the person; and

(e) if any such statement made by the person was false—whether the person knew that the statement was false; and

(f) whether the person has been refused a transport security identification card, or has had such a card suspended or cancelled, within the 10 years immediately before the decision.

(3) The Comptroller-General of Customs must, in deciding whether a company is a fit and proper company for the purposes of subparagraph (1)(c)(iv), have regard to:

(a) any conviction of the company of an offence against this Act committed within the 10 years immediately before that decision and at a time when any person who is presently a

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director, officer or shareholder of the company was a director, officer or shareholder of the company; and

(b) any conviction of the company of an offence against another law of the Commonwealth, or a law of a State or of a Territory, that is punishable by a fine of $5,000 or more, being an offence committed within the 10 years immediately before that decision and at a time when a person who is presently a director, officer or shareholder of the company was a director, officer or shareholder of the company; and

(c) whether a receiver of the property, or part of the property, of the company has been appointed; and

(d) whether the company is under administration within the meaning of the *Corporations Act 2001*; and

(e) whether the company has executed under Part 5.3A of that Act a deed of company arrangement that has not yet terminated; and

(f) whether the company is under restructuring within the meaning of that Act; and

(fa) whether the company has made, under Division 3 of Part 5.3B of that Act, a restructuring plan that has not yet terminated; and

(g) whether the company is being wound up.

(3A) For the purposes of paragraph (1)(j), the matters covered by this subsection are the following:

(a) if the applicant is a natural person—the experience of the following in operations that would be performed upon, or in relation to, goods at the proposed depot:

(i) the applicant;

(ii) each person, known to the Comptroller-General of Customs, who would participate in the management or control of, or in the operations carried out at, the proposed depot (whether or not the person would be present at the proposed depot);

(b) if the applicant is a partnership—the experience of the following in operations that would be performed upon, or in relation to, goods at the proposed depot:

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(i) each partner in the partnership;

(ii) each person, known to the Comptroller-General of Customs, who would participate in the management or control of, or in the operations carried out at, the proposed depot (whether or not the person would be present at the proposed depot);

(c) if the applicant is a company—the experience of the following in operations that would be performed upon, or in relation to, goods at the proposed depot:

(i) the company;

(ii) each director of the company;

(iii) each person, known to the Comptroller-General of Customs, who would participate in the management or control of, or in the operations carried out at, the proposed depot (whether or not the person would be present at the proposed depot);

(d) in any case—the applicant's operating procedures and processes that would apply at the proposed depot in relation to goods at the proposed depot.

(4) The Comptroller-General of Customs may refuse to grant a depot licence if, in his or her opinion, the place in relation to which the licence is sought would be too remote from the nearest place where officers of Customs regularly perform their functions for those officers to be able to conveniently check whether the Customs Acts are being complied with at the place.

(5) If the place in relation to which the application for a depot licence is sought (the ***proposed depot***) is proposed to be used as a depot for imported goods, the Comptroller-General of Customs must not grant the licence unless the applicant has, at the proposed depot, facilities that would enable the applicant to communicate with the Department electronically.

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77L Granting of a depot licence

(1) The Comptroller-General of Customs must decide whether or not to grant a depot licence within 60 days after:

(a) if paragraph (b) does not apply—the receipt of the application for the licence; or

(b) if the Comptroller-General of Customs requires further information or documents relating to the application to be supplied by the applicant under section 77J and the applicant supplied the information or documents in accordance with that section—the receipt of the information or documents.

(2) If the Comptroller-General of Customs has not made a decision whether or not to grant a depot licence within 60 days under subsection (1), the Comptroller-General of Customs is taken to have refused the application.

77LA Variation of places covered by depot licence

Variation on application

(1) The Comptroller-General of Customs may, on application by the holder of a depot licence, vary the licence by:

(a) omitting the description of the place that is currently described in the licence and substituting a description of another place; or

(b) altering the description of the place that is currently described in the licence.

Note: See subsection (8) for variation on the Comptroller-General's own initiative.

(1A) An application under subsection (1) may be made by document or electronically.

(2) A documentary application must:

(a) be in writing; and

(b) be in an approved form; and

(c) contain such information as the form requires; and

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(d) be signed in the manner indicated in the form; and

(e) be accompanied by payment of the depot licence variation charge.

(2A) An electronic application must:

(a) communicate such information as is set out in an approved statement; and

(b) be accompanied by payment of the depot licence variation charge.

(3) The Comptroller-General of Customs may, by written notice given to an applicant for the variation of a depot licence, require the applicant to supply further information in relation to the application within the period that is specified in the notice or within such further period as the Comptroller-General of Customs allows.

Note: See section 77ZA for the ways in which the notice may be given to the applicant.

(4) The Comptroller-General of Customs must not grant an application for the substitution of the description of a place not currently described in the licence, or for the alteration to the description of a place currently described in the licence, if, in his or her opinion:

(a) the physical security of the place whose description is to be substituted, or of the place that would have the altered description, as the case may be, would not be adequate having regard to:

(i) the nature of the place; or

(ii) the procedures and methods that would be adopted by the applicant to ensure the security of goods in the place if the variation were made; or

(b) the records that would be kept in relation to the place would not be suitable to enable an officer of Customs adequately to audit those records.

(5) The Comptroller-General of Customs must not grant an application for the substitution of the description of a place not currently described in the licence if, in his or her opinion, the place would be

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too remote from the nearest place where officers of Customs regularly perform their functions for those officers to be able to conveniently check whether the Customs Acts are being complied with at the place.

(6) The Comptroller-General of Customs must decide whether or not to grant the application within 60 days after:

(a) if paragraph (b) does not apply—the receipt of the application; or

(b) if the Comptroller-General of Customs requires further information relating to the application to be supplied by the applicant under subsection (3) and the applicant supplied the information in accordance with that subsection—the receipt of the information.

(7) If the Comptroller-General of Customs has not made the decision whether or not to grant the application within the period applicable under subsection (6), the Comptroller-General of Customs is taken to have refused the application.

Variation on own initiative

(8) The Comptroller-General of Customs may, on the Comptroller-General's own initiative, vary a depot licence by:

(a) omitting the description of the place that is currently described in the licence and substituting a description of another place; or

(b) altering the description of the place that is currently described in the licence.

(9) The Comptroller-General of Customs must give the holder of the depot licence a copy of the variation under subsection (8). The variation takes effect at the time the copy is given.

77N Conditions of a depot licence—general

(1) A depot licence is subject to the conditions set out in subsections (2) to (10).

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(2) The holder of a licence must, within 30 days after the occurrence of an event referred to in any of the following paragraphs, give the Comptroller-General of Customs particulars in writing of that event:

(a) a person not described in the application for the licence as participating in the management or control of the depot commences so to participate;

(aa) a person described in the application for the licence as participating in the management or control of the depot ceases to do so;

(b) in the case of a licence held by a partnership—there is a change in the membership of the partnership;

(c) in the case of a licence held by a company:

(i) the company is convicted of an offence of a kind referred to in paragraph 77K(3)(a) or (b); or

(ii) a receiver of the property, or part of the property, of the company is appointed; or

(iii) an administrator of the company is appointed under section 436A, 436B or 436C of the *Corporations Act 2001*; or

(iv) the company executes a deed of company arrangement under Part 5.3A of that Act; or

(v) a small business restructuring practitioner for the company is appointed under section 453B of that Act; or

(vi) the company makes a restructuring plan under Division 3 of Part 5.3B of that Act;

(d) a person who participates in the management or control of, or in the operations carried out at, the depot, the holder of the licence or, if a licence is held by a partnership, a member of the partnership:

(i) is convicted of an offence referred to in paragraph 77K(2)(a) or (b); or

(ii) becomes an insolvent under administration; or

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(iii) has been refused a transport security identification card, or has had such a card suspended or cancelled, within the applicable period referred to in paragraph 77V(2)(e).

(2A) The holder of a licence must not cause or permit a substantial change to be made:

(a) to a matter affecting the physical security of the depot; or

(b) to the keeping of records in relation to the depot; or

(c) to the holder's operating procedures or processes that apply at the depot in relation to goods at the depot;

unless the holder has given to the Comptroller-General of Customs 30 days' notice of the proposed change.

(3) The holder of the licence must pay to the Commonwealth any prescribed travelling expenses payable by the holder under the regulations in relation to travelling to and from the depot by a Collector for the purposes of the Customs Acts. For that purpose, the regulations may prescribe particular rates of travelling expenses in relation to particular circumstances concerning travelling to and from a depot by a Collector for the purposes of the Customs Acts.

(4) The holder of the licence must stack and arrange goods in the depot so that authorised officers have reasonable access to, and are able to examine, the goods.

(5) The holders of the licence must provide authorised officers with:

(a) adequate space and facilities for the examination of goods in the depot; and

(b) secure storage space for holding those goods.

(6) The holder of the licence must, when requested to do so, allow an authorised officer to enter and remain in the depot to examine goods:

(a) which are subject to customs control; or

(b) which an authorised officer has reasonable grounds to believe are subject to customs control.

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(7) The holder of the licence must, when requested to do so, provide an authorised officer with information, which is in the holder's possession or within the holder's knowledge, in relation to determining whether or not goods in the depot are subject to customs control.

(8) The holder of the licence must retain all commercial records and records created in accordance with the Customs Acts that:

(a) relate to goods received into a depot; and

(b) come into the possession or control of the holder of the licence;

for 5 years beginning on the day on which the goods were received into the depot.

(9) The holder of the licence must keep the records referred to in subsection (8) at:

(a) the depot; or

(b) if the holder has notified the Department in writing of the location of any other places occupied and controlled by the holder where the records are to be kept—those other places.

(10) At any reasonable time within the 5 years referred to in subsection (8), the holder of the licence must, when requested to do so:

(a) permit an authorised officer:

(i) to enter and remain in a place that is occupied and controlled by the holder and which the officer has reasonable grounds to believe to be a place where records referred to in subsection (8) are kept; and

(ii) to have full and free access to any such records in that place; and

(iii) to inspect, examine, make copies of, or take extracts from any such records in that place; and

(b) provide the officer with all reasonable facilities and assistance for the purpose of doing all of the things referred to in subparagraphs (a)(i) to (iii) (including providing access to any electronic equipment in the place for those purposes).

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(11) The holder of the licence is not obliged to comply with a request referred to in subsection (6), (7) or (10) unless the request is made by a person who produces written evidence of the fact that the person is an authorised officer.

77P Conditions of a depot licence—imported goods

(1) If imported goods were received into a depot during a particular month, it is a condition of the licence that the holder of the licence must:

(a) if paragraph (b) does not apply—cause the removal of those goods into a warehouse before the end of the following month; or

(b) if the Comptroller-General of Customs, on written request by the holder made before the end of that following month, grants an extension under this section—cause the removal of the goods into a warehouse within 30 days after the end of that following month.

(2) In this section:

month means month of a year.

77Q Comptroller-General of Customs may impose additional conditions to which a depot licence is subject

Imposition of additional conditions

(1) The Comptroller-General of Customs may, at any time, impose additional conditions to which a depot licence is subject if the Comptroller-General of Customs considers the conditions to be necessary or desirable:

(a) for the protection of the revenue; or

(b) for the purpose of ensuring compliance with the Customs Acts, any other law of the Commonwealth prescribed by the regulations or a law of a State or Territory prescribed by the regulations; or

(c) for any other purpose.

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(1A) If the Comptroller-General of Customs imposes conditions under subsection (1) when granting the depot licence, the Comptroller-General of Customs must specify the conditions in the licence.

(1B) If the Comptroller-General of Customs imposes conditions under subsection (1) after the depot licence has been granted:

(a) the Comptroller-General of Customs must, by written notice to the holder of the licence, notify the holder of the conditions; and

(b) the conditions cannot take effect before:

(i) the end of 30 days after the giving of the notice; or

(ii) if the Comptroller-General of Customs considers that it is necessary for the conditions to take effect earlier—the end of a shorter period specified in the notice.

Note: See section 77ZA for the ways in which the notice may be given to the holder of the licence.

Variation of imposed conditions

(2) The Comptroller-General of Customs may, by written notice to the holder of the licence, vary conditions imposed under subsection (1) in relation to that licence.

Note: See section 77ZA for the ways in which the notice may be given to the holder of the licence.

(3) A variation under subsection (2) cannot take effect before:

(a) the end of 30 days after the giving of the notice under that subsection; or

(b) if the Comptroller-General of Customs considers that it is necessary for the variation to take effect earlier—the end of a shorter period specified in the notice given under that subsection.

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77R Breach of conditions of depot licence

(1) The holder of a depot licence must not breach a condition of the licence set out in section 77N or 77P, or a condition imposed under section 77Q (including a condition varied under that section).

Penalty: 60 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(3) Subsection (1) does not apply if a breach of a condition of the depot licence occurs only as a result of the holder's compliance, or attempted compliance, with:

(a) a direction given under section 21 of the *Aviation Transport Security Act 2004* that applies to the holder; or

(b) a special security direction (within the meaning of section 9 of that Act) that applies to the holder.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

77S Duration of depot licences

Subject to this Part, a depot licence:

(a) comes into force on a date specified in the licence; and

(b) remains in force until the end of the 30 June next following the grant of the licence;

but may be renewed under section 77T.

Note: Section 77T provides that a licence may continue to be in force for a further period of 30 days after the 30 June referred to in this section under certain circumstances. Another provision that might affect the operation of this section is section 77VC (cancellation of depot licences).

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77T Renewal of depot licences

(1) The Comptroller-General of Customs must, before the end of a financial year (the ***current financial year***), notify each holder of a depot licence of the terms of this section.

Licence renewed if holder pays charge before end of current financial year

(2) If the holder pays the depot licence charge for the renewal of the licence before the end of the current financial year, the licence is renewed for another period of 12 months beginning on 1 July of the next financial year after the current financial year.

Consequences if charge not paid before end of current financial year

(3) If the holder fails to pay the depot licence charge for the renewal of the licence before the end of the current financial year, the licence is taken to be suspended for the period beginning on 1 July of the next financial year after the current financial year and ending at the earlier of the following times:

(a) the time the holder pays the charge;

(b) the end of 30 July of that next financial year.

Licence renewed if holder pays charge before 30 July of the next financial year

(4) If the holder pays the depot licence charge for the renewal of the licence during the period of 30 days beginning on 1 July of the next financial year after the current financial year, the licence is taken to have been renewed for another period of 12 months beginning on 1 July of that next financial year.

Licence expires if holder does not pay charge before 30 July of the next financial year

(5) If the holder fails to pay the depot licence charge for the renewal of the licence before the end of 30 July of the next financial year after

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the current financial year, the licence expires at the end of that 30 July.

Multiple renewals

(6) A depot licence that has been renewed may be further renewed.

77U Licence charges

(1) A depot licence charge is payable in respect of the grant of a depot licence by the person or partnership seeking the grant.

(2) A person liable to pay a depot licence charge for the grant of a depot licence must pay the charge within 30 days of the decision to grant that licence.

(3) A depot licence charge in respect of the renewal of a depot licence is payable by the holder of the licence in accordance with section 77T.

(4) Australia Post is not liable to pay a depot licence charge under this section in respect of each grant or renewal of a depot licence that covers the whole or a part of an International Mail Centre.

77V Notice of intended cancellation etc. of a depot licence

(1) The Comptroller-General of Customs may give a notice under this subsection to the holder of a depot licence if:

(a) the Comptroller-General of Customs is satisfied that:

(i) the physical security of the depot is no longer adequate having regard to the matters referred to in paragraph 77K(1)(h); or

(vii) a condition to which the licence is subject has not been complied with; or

(viii) the depot licence charge payable in respect of the grant of the licence remains unpaid more than 30 days after the grant of the licence; or

(aa) if the licence is held by a natural person—the Comptroller-General of Customs is satisfied that:

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(i) the applicant is not a fit and proper person to hold a depot licence; or

(ii) a person participating in the management or control of, or in the operations carried out at, the depot (whether or not the person is present at the depot) is not a fit and proper person to so participate; or

(ab) if the licence is held by a partnership—the Comptroller-General of Customs is satisfied that:

(i) a member of the partnership is not a fit and proper person to be a member of a partnership holding a depot licence; or

(ii) a person participating in the management or control of, or in the operations carried out at, the depot (whether or not the person is present at the depot) is not a fit and proper person to so participate; or

(ac) if the licence is held by a company—the Comptroller-General of Customs is satisfied that:

(i) a director of the company is not a fit and proper person to be a director of a company holding a depot licence; or

(ii) a person participating in the management or control of, or in the operations carried out at, the depot (whether or not the person is present at the depot) is not a fit and proper person to so participate; or

(iii) the company is not a fit and proper company to hold a depot licence; or

(ad) the Comptroller-General of Customs is satisfied that it is appropriate in all the circumstances to cancel the licence, having regard to the matters covered by subsection (3A); or

(b) the Comptroller-General of Customs is satisfied on any other grounds that it is necessary to cancel the licence for the protection of the revenue or for the purpose of ensuring compliance with the Customs Acts, any other law of the Commonwealth prescribed by the regulations or a law of a State or Territory prescribed by the regulations.

Note: See section 77ZA for the ways in which the notice may be given to the holder of the licence.

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(2) In deciding whether a person is a fit and proper person for the purposes of paragraph (1)(aa), (ab) or (ac) (other than subparagraph (1)(ac)(iii)), the Comptroller-General of Customs must have regard to:

(a) whether or not the person is an insolvent under administration; and

(b) any conviction of the person of an offence against this Act, or of an offence against another law of the Commonwealth, or a law of a State or of a Territory, punishable by imprisonment for one year or longer, that is committed:

(i) if the licence has not been renewed previously—after the grant of the licence or within 10 years immediately before the grant of the licence; or

(ii) if the licence has been renewed on one or more occasions—after the renewal or latest renewal of the licence or within 10 years immediately before that renewal; and

(c) any misleading statement made under section 77H or 77J in relation to the application for the depot licence by or in relation to the person; and

(d) if any such statement made by the person was false—whether the person knew that the statement was false; and

(e) whether the person has been refused a transport security identification card, or has had such a card suspended or cancelled:

(i) if the licence has not been renewed previously—after the grant of the licence or within 10 years immediately before the grant of the licence; or

(ii) if the licence has been renewed on one or more occasions—after the renewal or latest renewal of the licence or within 10 years immediately before that renewal.

(3) In deciding whether a company is a fit and proper company for the purposes of subparagraph (1)(ac)(iii), the Comptroller-General of Customs must have regard to:

(a) the matters referred to in paragraphs 77K(3)(c) to (g); and

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(b) any conviction of the company of an offence against this Act or of an offence against another law of the Commonwealth, or a law of a State or of a Territory, punishable by a fine of $5,000 or more, that is committed:

(i) if the licence has not been renewed previously—after the grant of the licence or within 10 years immediately before the grant of the licence; or

(ii) if the licence has been renewed on one or more occasions—after the renewal or the latest renewal of the licence or within 10 years immediately before that renewal;

and at a time when a person who is presently a director, officer or shareholder of the company was a director, officer or shareholder of the company.

(3A) For the purposes of paragraph (1)(ad), the matters covered by this subsection are the following:

(a) if the licence is held by a natural person—the experience of the following in operations that are performed upon, or in relation to, goods at the depot:

(i) the holder;

(ii) each person, known to the Comptroller-General of Customs, who is participating in the management or control of, or in the operations carried out at, the depot (whether or not the person is present at the depot);

(b) if the licence is held by a company—the experience of the following in operations that are performed upon, or in relation to, goods at the depot:

(i) the company;

(ii) each director of the company;

(iii) each person, known to the Comptroller-General of Customs, who is participating in the management or control of, or in the operations carried out at, the depot (whether or not the person is present at the depot);

(c) if the licence is held by a partnership—the experience of the following in operations that are performed upon, or in relation to, goods at the depot:

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(i) each partner in the partnership;

(ii) each person, known to the Comptroller-General of Customs, who is participating in the management or control of, or in the operations carried out at, the depot (whether or not the person is present at the depot);

(d) in any case—the holder's operating procedures or processes that apply at the depot in relation to goods at the depot.

(5) The notice under subsection (1):

(a) must state that, if the holder of the depot licence wishes to prevent the cancellation of the licence, he or she may, within 7 days after the day on which the notice is given, give to the Comptroller-General of Customs at an address specified in the notice a written statement showing cause why the licence should not be cancelled; and

(b) may state that the licence is suspended if the notice is given because of the operation of paragraph (1)(ad) or (b).

(6) If the notice under subsection (1) states that the depot licence is suspended, the licence is suspended on and from the giving of the notice.

Note: For revocation of the suspension, see section 77VB.

(7) Despite the giving of a notice under subsection (1) in relation to a depot licence, nothing in this Part prevents:

(a) the Comptroller-General of Customs giving a notice under subsection 77T(1) in relation to the renewal of the licence; or

(b) the holder of the licence obtaining a renewal of the licence by paying a depot licence charge in accordance with section 77T.

Note: A depot licence charge paid in the circumstances described in this subsection may be refunded under section 77W.

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77VA Depot must not be used if depot licence is suspended etc.

Offence

(1) If a depot licence is suspended under section 77T or 77V, a person must not use the depot for a purpose referred to in subsection 77G(1).

Penalty: 50 penalty units.

Collector may permit use of depot etc. during suspension

(2) If a depot licence is suspended under section 77T or 77V, a Collector may, while the licence is so suspended and despite subsection (1) of this section:

(a) permit imported goods, or goods for export, that are subject to customs control to be held in the depot; and

(b) permit the unpacking or packing of such goods; and

(c) permit the removal of such goods from the depot, including the removal of such goods to another depot; and

(d) by notice given to the owner of such goods, require the owner to remove the goods to another depot, or to a warehouse, approved by the Collector; and

(e) take such control of the depot, or all or any goods in the depot, as may be necessary:

(i) for the protection of the revenue; or

(ii) for ensuring compliance with the Customs Acts, any other law of the Commonwealth prescribed by the regulations or a law of a State or Territory prescribed by the regulations; and

(f) by notice in writing to the holder of the licence, require the holder to pay to the Commonwealth, in respect of the services of officers required as the result of the suspension, such fee as the Comptroller-General of Customs determines having regard to the cost of the services.

Note 1: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

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Note 2: See section 77ZA for the ways in which a notice may be given to the owner of goods or the holder of the licence.

(3) Without limiting paragraph (2)(f), the services referred to in that paragraph include services relating to:

(a) the enforcement of the suspension; and

(b) the supervision of activities in relation to the depot that are permitted by a Collector.

(4) If an amount that the holder of a depot licence is required to pay in accordance with a notice under paragraph (2)(f) is not paid, that amount may be recovered as a debt due to the Commonwealth by action in a court of competent jurisdiction.

77VB Revocation of suspension of depot licences

If a depot licence is suspended under section 77V, the Comptroller-General of Customs:

(a) may at any time revoke the suspension; and

(b) if the licence has not been cancelled within 28 days after the day on which the licence was suspended—must revoke the suspension.

Note: For the cancellation of depot licences, see section 77VC.

77VC Cancellation of depot licences

(1) The Comptroller-General of Customs may, by notice in writing given to the holder of a depot licence, cancel the licence if the Comptroller-General of Customs is satisfied of a matter mentioned in subsection 77V(1) in relation to the licence.

Note: See section 77ZA for the ways in which the notice may be given to the holder of the licence.

(2) The Comptroller-General of Customs may, by notice in writing given to the holder of a depot licence, cancel the licence if the Comptroller-General of Customs receives a written request from the holder of the licence that the licence be cancelled on and after a specified day.

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Note: See section 77ZA for the ways in which the notice may be given to the holder of the licence.

(4) If under this section the Comptroller-General of Customs cancels a depot licence and goods remain in the former depot, the Comptroller-General must publish a notice, by any means the Comptroller-General considers appropriate, informing owners of goods in that former depot of the cancellation and the date of the cancellation.

77W Refund of depot licence charge on cancellation of a depot licence on request

(1) If:

(a) a depot licence is cancelled under subsection 77VC(2) before the end of a financial year; and

(b) the person or partnership (the ***former holder***) who held the licence before its cancellation has paid the depot licence charge for that financial year;

the former holder is entitled to a refund of an amount worked out using the formula in subsection (1A).

(1A) For the purposes of subsection (1), the formula is:

$$\text{Annual rate} \times \frac{\text{Post-cancellation days}}{\text{Days in the year}}$$

where:

annual rate means the amount of $4,000, or, if another amount is prescribed under subsection 6(2) of the *Customs Licensing Charges Act 1997*, that other amount.

days in the year means:

(a) if the financial year in which the licence is in force is not constituted by 365 days—the number of days in that financial year; or

(b) otherwise—365.

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post-cancellation days means the number of days in the financial year during which the depot licence is not in force following the cancellation of the licence.

(2) If subsection (1) applies and the former holder has paid the depot licence charge in respect of the renewal of the licence for the following financial year, the former holder is entitled to a refund of the full amount of that charge.

77X Collector's powers in relation to a place that is no longer a depot

(2) If a place ceases to be covered by a depot licence, a Collector may:

(a) permit goods that are subject to customs control to be received into the place during a period of 30 days after the place ceased to be covered by a depot licence; and

(b) permit imported goods to be unpacked from receptacles in the place; and

(c) permit goods for export to be packed into receptacles in the place; and

(d) permit examination of goods that are subject to customs control (the ***controlled goods***) by officers of Customs in the place; and

(e) permit removal of any controlled goods from the place to a depot covered by a depot licence or to a warehouse; and

(f) by notice in writing to the person who was, or who was taken to be, the holder of the licence (the ***former holder***) covering that place, require the former holder to remove any controlled goods to a depot covered by a depot licence or to a warehouse; and

(g) while controlled goods are in the place, take such control of the place as may be necessary for the protection of the revenue or for ensuring compliance with the Customs Acts, any other law of the Commonwealth prescribed by the regulations or a law of a State or Territory prescribed by the regulations; and

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(h) by notice in writing to the former holder, require the former holder to pay to the Commonwealth, in respect of the services of officers required in relation to any controlled goods as a result of the licence ceasing to be in force (including services relating to the supervision of activities in relation to the place, the stocktaking of goods in the place or the reconciliation of records relating to such goods), such fees as the Comptroller-General of Customs determines having regard to the cost of the services; and

(i) if the former holder fails to comply with a requirement under paragraph (f) in relation to any controlled goods, remove the goods from the place to a depot covered by a depot licence or a warehouse; and

(j) if goods have been removed under paragraph (i), by notice in writing to the former holder, require the former holder to pay to the Commonwealth in respect of the cost of the removal such fees as the Comptroller-General of Customs determines having regard to that cost.

Note: See section 77ZA for the ways in which the notice may be given to the former holder.

(3) If an amount that a former holder is required to pay in accordance with a notice under paragraph (2)(h) or (j) is not paid, that amount may be recovered as a debt due to the Commonwealth by action in a court of competent jurisdiction.

77Y Collector may give directions in relation to depot or goods subject to customs control

(1) A Collector may, for the protection of the revenue or for the purpose of ensuring compliance with the Customs Acts, any other law of the Commonwealth prescribed by the regulations or a law of a State or Territory prescribed by the regulations, give written directions under this section to:

(a) the holder of a depot licence; or

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(b) a person participating in the management or control of the depot;

in relation to the depot or to goods in the depot that are subject to customs control (the ***controlled goods***).

(2) A direction under subsection (1) must be a direction:

(a) to move, or not to move, controlled goods within a depot; or

(b) about the storage of controlled goods in the depot; or

(c) to move controlled goods to another depot or a warehouse; or

(d) about the unpacking from receptacles of controlled goods; or

(e) about the packing into receptacles of controlled goods; or

(f) about the physical security of the depot; or

(g) to give to the Collector, within the specified period and in the specified manner, specified information in relation to the management of controlled goods; or

(h) to produce to the Collector, within the specified period and in the specified manner, specified documents in relation to the management of controlled goods; or

(i) to make specified changes, within the specified period, to specified information, or specified documents, in relation to the management of controlled goods.

(2A) For the purposes of paragraph (2)(g), (h) or (i), the period specified in the direction must be at least 7 days after the day the direction is given.

(3) A Collector may, for the purpose of:

(a) preventing interference with controlled goods in a depot; or

(b) preventing interference with the exercise of the powers or the performance of the functions of a Collector in respect of a depot or of controlled goods in a depot;

give directions, in relation to the controlled goods, to any person in the depot.

(3A) A person who has been given a direction under subsection (1) or (3) must not intentionally refuse or fail to comply with the direction.

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Penalty: 120 penalty units.

(4) A person who has been given a direction under subsection (1) or (3) must not refuse or fail to comply with the direction.

Penalty: 60 penalty units.

(5) An offence against subsection (4) is an offence of strict liability.

(6) This section does not limit the directions that a Collector may give under section 112C.

77Z Licences cannot be transferred

(1) Subject to subsection (2), a depot licence cannot be transferred to another person.

(2) A depot licence may be transferred to another person in the circumstances prescribed by the regulations.

77ZAA Access to depots

A Collector may, at any time, gain access to and enter, if necessary by force, any place covered by a depot licence and examine any goods at the place.

77ZA Giving of notices

Notices to persons

(1) A notice under this Part from the Comptroller-General of Customs or a Collector to a person must be given to the person by:

(a) sending it by email to the last known email address of the person; or

(b) sending it by other electronic means to the person; or

(c) delivering it personally to the person; or

(d) sending it to the person by pre-paid post or registered post to the person's last known place of residence or business; or

(e) leaving it at:

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(i) the person's last known place of residence with some person apparently a resident of that place and apparently not less than 16 years of age; or

(ii) the person's last known place of business with some person apparently employed at that place and apparently not less than 16 years of age; or

(f) for a notice to the holder of a depot licence (and in addition to paragraphs (a) to (e))—delivering it personally to a person who, at the time of delivery, apparently participates in the management or control of the depot.

Notices to partnerships

(2) A notice under this Part from the Comptroller-General of Customs or a Collector to a partnership must be given to the partnership by:

(a) sending it by email to the last known email address of the partnership or a partner in the partnership; or

(b) sending it by other electronic means to the partnership or a partner in the partnership; or

(c) delivering it personally to a partner in the partnership; or

(d) sending it to the partnership by pre-paid post or registered post to the partnership's last known place of business; or

(e) leaving it at the partnership's last known place of business with some person apparently employed at that place and apparently not less than 16 years of age; or

(f) for a notice to the holder of a depot licence (and in addition to paragraphs (a) to (e))—delivering it personally to a person who, at the time of delivery, apparently participates in the management or control of the depot.

Common rule

(3) For the purpose of the application of section 29 of the *Acts Interpretation Act 1901* to the sending by post of a notice under this Part on a person or partnership who holds or held a depot licence, if the notice is posted as a letter addressed to the person or

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partnership at the address of the place that is or was the depot, the notice is taken to be properly addressed.

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Part V—Warehouses

78 Interpretation

(1) In this Part, unless the contrary intention appears:

excise-equivalent warehouse licence means a warehouse licence that authorises the warehousing of excise-equivalent goods, but does not include a warehouse licence that:

(a) covers an outwards duty free shop (as defined in subsection 96A(1)); or

(b) covers an inwards duty free shop (as defined in subsection 96B(1)); or

(c) authorises the storage of goods (other than fuel) to be supplied to aircraft or ships as aircraft's stores or ship's stores.

An expression used in paragraph (c) of this definition that is defined in section 130C has the same meaning when used in that paragraph as it has in Part VII.

place includes an area, a building and a part of a building.

warehouse, in relation to a warehouse licence, means a warehouse covered by the licence.

warehouse licence means a licence granted under section 79 and includes such a licence that has been renewed under section 84.

warehouse licence application charge means the warehouse licence application charge imposed by the *Customs Licensing Charges Act 1997* and payable as set out in section 80.

warehouse licence charge means the warehouse licence charge imposed by the *Customs Licensing Charges Act 1997* and payable as set out in section 85.

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warehouse licence variation charge means the warehouse licence variation charge imposed by the *Customs Licensing Charges Act 1997* and payable as set out in section 81B of this Act.

(3) For the purposes of this Part, a person is taken to participate in the management or control of a warehouse if:

(a) the person has authority:

(i) to direct the operations, or an important or substantial part of the operations, of the warehouse; or

(ii) to direct activities in the warehouse; or

(iii) to remove goods from the warehouse; or

(b) the person has authority to direct a person who has authority referred to in paragraph (a) in the exercise of that authority.

79 Warehouse licences

(1) Subject to this Part, the Comptroller-General of Customs may grant a person or partnership a licence in writing, to be known as a warehouse licence, to warehouse goods at a place covered by the licence.

(2) A warehouse licence may cover:

(a) if the licence is an excise-equivalent warehouse licence—one or more places; or

(b) otherwise—just one place.

(3) A warehouse licence may authorise, at a place covered by the licence, the warehousing of:

(a) goods generally; or

(b) goods included in one or more classes.

(4) A warehouse licence may also authorise, at a place covered by the licence and in relation to all or particular classes of goods warehoused at the place, any of the following activities to be carried on:

(a) blending;

(b) packaging;

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(c) processing;
(d) manufacturing excisable goods;
(e) trading;
(f) other activities specified in the licence.

80 Application for a warehouse licence

(1) An application for a warehouse licence may be made to the Comptroller-General of Customs.

(2) An application under subsection (1) may be made by document or electronically.

(3) A documentary application must:
(a) be in writing; and
(b) be in an approved form; and
(c) contain such information as the form requires; and
(d) be accompanied by any documents required by the form; and
(e) be signed in the manner indicated in the form; and
(f) except if the application is for an excise-equivalent warehouse licence—be accompanied by the warehouse licence application charge.

(4) An electronic application must:
(a) communicate such information as is set out in an approved statement; and
(b) be accompanied by any documents required by the approved statement; and
(c) except if the application is for an excise-equivalent warehouse licence—be accompanied by the warehouse licence application charge.

(5) An application cannot be made under subsection (1) to use a place described in the application to warehouse tobacco products.

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80A Comptroller-General of Customs may require applicant to supply further information or documents

(1) The Comptroller-General of Customs may, by written notice given to an applicant for a warehouse licence, require the applicant to supply further information or documents in relation to the application within the period that is specified in the notice.

Note: See section 102AA for the ways in which the notice may be given to the applicant.

(2) The Comptroller-General of Customs may extend the specified period if the applicant, in writing, requests the Comptroller-General of Customs to do so.

(3) If the applicant:

(a) fails to supply the further information or documents within the specified period, or that period as extended under subsection (2); but

(b) supplies the information or documents at a later time;

the Comptroller-General of Customs must not take the information or documents into account in determining whether to grant the warehouse licence.

81 Requirements for grant of warehouse licence

(1) The Comptroller-General of Customs must not grant a warehouse licence if, in the Comptroller-General's opinion:

(a) where the applicant is a natural person—the applicant is not a fit and proper person to hold a warehouse licence; or

(b) where the applicant is a partnership—any of the partners is not a fit and proper person to be a member of a partnership holding a warehouse licence; or

(da) where the applicant is a company:

(i) the company is not a fit and proper company to hold a warehouse licence; or

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(ii) any of the directors of the company is not a fit and proper person to be a director of a company holding a warehouse licence.

(1A) The Comptroller-General must not grant a warehouse licence that covers a particular place if, in the Comptroller-General's opinion:

(a) if the applicant is a natural person:

(i) the applicant would not be in a position to occupy and control the place if the licence were granted; or

(ii) a person who would participate in the management or control of, or in the operations carried out at, the place (whether or not the person would be present at the place) is not a fit and proper person to so participate; or

(b) if the applicant is a partnership:

(i) none of the partners in the partnership would be in a position to occupy and control the place if the licence were granted; or

(ii) a person who would participate in the management or control of, or in the operations carried out at, the place (whether or not the person would be present at the place) is not a fit and proper person to so participate; or

(ba) if the applicant is a company:

(i) the company would not be in a position to occupy and control the place if the licence were granted; or

(ii) a person who would participate in the management or control of, or in the operations carried out at, the place (whether or not the person would be present at the place) is not a fit and proper person to so participate; or

(c) in any case—the physical security of the place is not adequate having regard to:

(i) the nature of the place; or

(ii) the kinds and quantity of goods that would be kept in the place; or

(iii) the procedures and methods that would be adopted by the applicant to ensure the security of goods in the place; or

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(d) in any case—the plant and equipment that would be used in relation to goods at the place are not suitable having regard to the nature of those goods and that place; or

(e) in any case—the books of account or records that would be kept in relation to the place would not be suitable to enable an officer of Customs to adequately audit those books or records; or

(f) it is inappropriate in all the circumstances to grant the licence covering the place, having regard to the matters covered by subsection (3A).

(2) The Comptroller-General of Customs must, in determining whether a person is a fit and proper person for the purposes of paragraph (1)(a) or (b) or subparagraph (1)(da)(ii) or (1A)(a)(ii), (b)(ii) or (ba)(ii), have regard to:

(a) any conviction of the person for an offence against this Act committed within the 10 years immediately preceding the making of the application; and

(b) any conviction of the person for an offence under a law of the Commonwealth, of a State or of a Territory that is punishable by imprisonment for a period of one year or longer, being an offence committed within the 10 years immediately preceding the making of the application; and

(c) whether the person is an undischarged bankrupt; and

(d) any misleading statement made under section 80 or 80A in relation to the application by or in relation to the person; and

(e) where any statement by the person in the application was false—whether the person knew that the statement was false; and

(f) whether the person has been refused a transport security identification card, or has had such a card suspended or cancelled, within the 10 years immediately preceding the making of the application.

(3) The Comptroller-General of Customs must, in determining whether a company is a fit and proper company for the purposes of subparagraph (1)(da)(i), have regard to:

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(a) any conviction of the company of an offence against this Act committed within the 10 years immediately preceding the making of the application and at a time when a person who is a director, officer or shareholder of the company was a director, officer or shareholder of the company; or

(b) any conviction of the company of an offence under a law of the Commonwealth, of a State or of a Territory that is punishable by a fine of 50 penalty units or more, being an offence committed within the 10 years immediately preceding the making of the application and at a time when a person who is a director, officer or shareholder of the company was a director, officer or shareholder of the company; or

(c) whether a receiver of the property, or part of the property, of the company has been appointed; or

(ca) whether the company is under administration within the meaning of the *Corporations Act 2001*; or

(cb) whether the company has executed under Part 5.3A of that Act a deed of company arrangement that has not yet terminated; or

(d) whether the company is under restructuring within the meaning of that Act; or

(da) whether the company has made, under Division 3 of Part 5.3B of that Act, a restructuring plan that has not yet terminated; or

(e) whether the company is being wound up.

(3A) For the purposes of paragraph (1A)(f), the matters covered by this subsection are the following:

(a) if the applicant is a natural person—the experience of the following in operations that would be performed upon, or in relation to, goods at the place:

(i) the applicant;

(ii) each person, known to the Comptroller-General of Customs, who would participate in the management or control of, or in the operations carried out at, the place

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(whether or not the person would be present at the place);

(b) if the applicant is a partnership—the experience of the following in operations that would be performed upon, or in relation to, goods at the place:

(i) each partner in the partnership;

(ii) each person, known to the Comptroller-General of Customs, who would participate in the management or control of, or in the operations carried out at, the place (whether or not the person would be present at the place);

(c) if the applicant is a company—the experience of the following in operations that would be performed upon, or in relation to, goods at the place:

(i) the company;

(ii) each director of the company;

(iii) each person, known to the Comptroller-General of Customs, who would participate in the management or control of, or in the operations carried out at, the place (whether or not the person would be present at the place);

(d) in any case—the applicant's operating procedures and processes that would apply at the place in relation to goods at that place.

(4) Subject to subsections (1) and (1A) of this section and subsection 79(2), if an application is made for a warehouse licence that would cover more than one place, the Comptroller-General of Customs may decide:

(a) to grant a warehouse licence that covers any or all of the places; or

(b) to refuse the application in its entirety.

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81A Grant of a warehouse licence

(1) If an application for a warehouse licence is made, the Comptroller-General of Customs must decide whether or not to grant the licence within 60 days after:

(a) if paragraph (b) does not apply—the receipt of the application; or

(b) if the Comptroller-General of Customs, under section 80A, requires the applicant to supply further information or documents in relation to the application and the applicant supplies the information or documents in accordance with that section—the receipt of the information or documents.

(2) If the Comptroller-General of Customs has not made a decision whether or not to grant the warehouse licence before the end of the period referred to in subsection (1), the Comptroller-General of Customs is taken to have refused the application at the end of that period.

81AA Notice of refusal to grant a warehouse licence

If, in relation to an applicant for a warehouse licence, the Comptroller-General of Customs refuses to grant a warehouse licence, or refuses to grant a warehouse licence in relation to a particular place, the Comptroller-General must give the applicant written notice of the refusal and of the reasons for the refusal.

Note: See section 102AA for the ways in which the notice may be given to the applicant.

81B Variation of the place covered by a warehouse licence

Variation on application

(1) On application by the holder of a warehouse licence, the Comptroller-General of Customs may (subject to subsections (4) to (5A)), by written notice given to the licence holder, vary the licence to do one or more of the following:

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(a) remove a place from the places covered by the licence without substituting or adding any places;

(b) remove a place from the places covered by the licence and substitute a different place;

(c) add a place to the places covered by the licence, subject to subsection 79(2).

Note 1: To change the boundaries or other details of a place covered by a warehouse licence, the licence may be varied as mentioned in paragraph (b).

Note 2: See subsection (9) for variation on the Comptroller-General's own initiative.

(1A) An application under subsection (1) may be made by document or electronically.

(2) A documentary application must:

(a) be in writing; and

(b) be in an approved form; and

(c) contain such information as the form requires; and

(d) be signed in the manner indicated in the form; and

(e) except if the application is in relation to an excise-equivalent warehouse licence—be accompanied by the warehouse licence variation charge.

(2AA) An electronic application must:

(a) communicate such information as is set out in an approved statement; and

(b) except if the application is in relation to an excise-equivalent warehouse licence—be accompanied by the warehouse licence variation charge.

(2A) If:

(a) a licence (the ***first licence***) covers a particular place; and

(b) the Comptroller-General of Customs varies another warehouse licence held by the same licence holder to cover the place;

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the Comptroller-General must, by written notice given to the licence holder:

(c) unless paragraph (d) applies—vary the first licence to no longer cover the place; or

(d) if the effect of varying the first licence as mentioned in paragraph (c) would be that no places are covered by the licence—cancel the first licence.

(3) The Comptroller-General of Customs may, by written notice given to an applicant for the variation of a warehouse licence, require the applicant to give further information in relation to the application:

(a) within the period that is specified in the notice; or

(b) within such further period as the Comptroller-General of Customs allows.

Note: See section 102AA for the ways in which the notice may be given to the applicant.

(4) If an application for the variation of a warehouse licence is made under subsection (1), the Comptroller-General of Customs must not grant the application if, in the Comptroller-General's opinion:

(a) the physical security of a place that would be covered by the licence as varied would not be adequate having regard to:

(i) the nature of the place; or

(ii) the kinds and quantity of goods that would be kept in the place if the variation were made; or

(iii) the procedures and methods that would be adopted by the applicant to ensure the security of goods in the place if the variation were made; or

(b) the plant and equipment that would be used in relation to goods in a place that would be covered by the licence as varied would not be suitable having regard to the nature of those goods and that place; or

(c) the books of account or records that would be kept in relation to a place that would be covered by the licence as varied would not be suitable to enable an officer of Customs adequately to audit those books or records.

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(5) The Comptroller-General of Customs must not grant an application under subsection (1) to vary a warehouse licence to substitute or add a place to the places covered by the licence if, in the Comptroller-General's opinion, the place would be too remote from the nearest place where officers, who regularly perform their functions, would be able conveniently to check whether the Customs Acts are being complied with at the place.

(5A) If paragraph (1)(a) applies, the Comptroller-General must vary the licence to remove the place unless the effect of doing so would be that no place is covered by the licence.

Note: The Comptroller-General must cancel the licence if this subsection prevents the variation of the licence (see paragraph 87(1A)(b)).

(5B) Subject to subsections (4), (5) and (5A) of this section and subsection 79(2), if an application is made to vary a warehouse licence in relation to more than one place, the Comptroller-General need not vary the licence in relation to each of those places.

(6) If an application is made under subsection (1), the Comptroller-General of Customs must decide whether or not to grant the application:

(a) if paragraph (b) of this subsection does not apply—within 60 days after receiving the application; or

(b) if:

(i) the Comptroller-General of Customs requires the applicant to give further information under subsection (3); and

(ii) the applicant supplies the information in accordance with that subsection;

within 60 days after receiving the information.

(7) If the Comptroller-General of Customs has not made a decision whether or not to grant an application made under subsection (1) before the end of the period that applies under subsection (6), the Comptroller-General of Customs is taken to have refused the application at the end of that period.

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(8) If a warehouse licence is varied under subsection (1) to remove a place (the ***former warehouse***) from the places that are covered by the licence, a Collector may:

(a) permit goods to be placed in the former warehouse; and

(b) permit the removal of goods from the former warehouse, including the removal of goods to a warehouse; and

(c) by notice in writing to the licence holder, require the licence holder to remove all or specified goods in the former warehouse to a warehouse approved by the Collector; and

(d) take such control of the former warehouse or all or any goods in the former warehouse as may be necessary for the protection of the revenue or for ensuring compliance with the Customs Acts, any other law of the Commonwealth prescribed by the regulations, or a law of a State or Territory prescribed by the regulations; and

(e) by notice in writing to the licence holder, require the licence holder to pay to the Commonwealth in respect of the services of officers required as the result of the licence being varied (including services relating to the supervision of activities in relation to the former warehouse permitted by a Collector, the stocktaking of goods in the former warehouse or the reconciliation of records relating to such goods) such fee as the Comptroller-General of Customs determines having regard to the cost of the services; and

(f) if the licence holder fails to comply with a requirement under paragraph (c) in relation to goods—remove the goods from the former warehouse to a warehouse; and

(g) if goods have been removed in accordance with paragraph (f)—by notice in writing to the licence holder, require the licence holder to pay to the Commonwealth in respect of the cost of the removal such fee as the Comptroller-General of Customs determines having regard to that cost.

Note: See section 102AA for the ways in which the notice may be given to the licence holder.

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Variation on own initiative

(9) The Comptroller-General of Customs may, on the Comptroller-General's own initiative, vary a warehouse licence by:

(a) in any case—removing any place covered by the licence and substituting a different place; or

(b) if the licence is an excise-equivalent warehouse licence:

(i) removing a place from the places covered by the licence without substituting or adding any places, provided that after the variation there is at least one place that is covered by the licence; or

(ii) adding a place to the places covered by the licence.

Note: To change the boundaries or other details of a place covered by a warehouse licence, the licence may be varied as mentioned in paragraph (a).

(10) The Comptroller-General of Customs must give the holder of the warehouse licence a copy of the variation under subsection (9). The variation takes effect at the time the copy is given.

82 Conditions of a warehouse licence—general

(1) A warehouse licence is subject to the condition that, if:

(a) a person not described in the application for the licence as participating in the management or control of a warehouse covered by the licence commences so to participate; or

(aa) a person described in the application for the licence as participating in the management or control of a warehouse covered by the licence ceases to do so; or

(b) in the case of a licence held by a partnership—there is a change in the membership of the partnership; or

(ba) in the case of a licence held by a company—any of the following events occurs:

(i) the company is convicted of an offence of a kind referred to in paragraph 81(3)(a) or (b);

(ii) a receiver of the property, or part of the property, of the company is appointed;

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(iii) an administrator of the company is appointed under section 436A, 436B or 436C of the *Corporations Act 2001*;

(iv) the company executes a deed of company arrangement under Part 5.3A of that Act;

(iva) a small business restructuring practitioner for the company is appointed under section 453B of that Act;

(ivb) the company makes a restructuring plan under Division 3 of Part 5.3B of that Act;

(v) the company begins to be wound up; or

(c) a person who participates in the management or control of, or in the operations carried out at, a warehouse covered by the licence, the holder of the licence or, in the case of a licence held by a partnership, a member of the partnership:

(i) is convicted of an offence referred to in paragraph 81(2)(a) or (b); or

(ii) becomes bankrupt; or

(iii) has been refused a transport security identification card, or has had such a card suspended or cancelled, within the applicable period referred to in paragraph 86(1A)(d);

the holder of the licence shall, within 30 days after the occurrence of the event referred to in whichever of the preceding paragraphs applies, give the Comptroller-General of Customs particulars in writing of that event.

(1A) A warehouse licence is subject to the condition that the holder of the licence must not cause or permit a substantial change to be made:

(a) to a matter affecting the physical security of a warehouse covered by the licence; or

(b) to plant or equipment used in relation to goods in a warehouse covered by the licence; or

(c) to the keeping of accounts or records in relation to a warehouse covered by the licence; or

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(d) to the holder's operating procedures or processes that apply at a warehouse covered by the licence in relation to goods at the warehouse;

unless the holder has given to the Comptroller-General of Customs 30 days' notice of the proposed change.

(2) A warehouse licence is subject to the condition that no tobacco products will be warehoused in a warehouse covered by the licence.

(3) A warehouse licence is subject to such other conditions (if any) as are specified in the licence that the Comptroller-General of Customs considers to be necessary or desirable:

(a) for the protection of the revenue; or

(b) for ensuring compliance with the Customs Acts, any other law of the Commonwealth prescribed by the regulations or a law of a State or Territory prescribed by the regulations; or

(c) for any other purpose.

(4) The conditions specified in a warehouse licence may include:

(a) conditions specifying the persons or classes of persons whose goods may be warehoused in any one or more of the warehouses covered by the licence; and

(b) conditions limiting the operations that may be performed upon, or in relation to, goods in any one or more of the warehouses covered by the licence.

(5) The Comptroller-General of Customs must, in writing and upon application by the holder of a warehouse licence for a variation of the conditions to which the licence is subject:

(a) vary those conditions; or

(b) refuse to vary those conditions.

(6) Subsection (5) does not limit section 82B.

Kind of application

(7) An application under subsection (5) may be made by document or electronically.

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(8) A documentary application must:
  (a) be in writing; and
  (b) be in an approved form; and
  (c) contain such information as the form requires; and
  (d) be accompanied by any documents required by the form; and
  (e) be signed in the manner indicated in the form.

(9) An electronic application must:
  (a) communicate such information as is set out in an approved statement; and
  (b) be accompanied by any documents required by the approved statement.

Notification of decisions

(10) If the Comptroller-General of Customs, under subsection (5), varies the conditions to which the licence is subject, the Comptroller-General must give the holder of the licence a copy of the variation. The variation takes effect at the time the copy is given.

(11) If the Comptroller-General of Customs, under subsection (5), refuses to vary the conditions to which the licence is subject, the Comptroller-General must give the holder of the licence written notice of the refusal and of the reasons for the refusal.

Note: See section 102AA for the ways in which the notice may be given to the holder of the licence.

82A Comptroller-General of Customs may impose additional conditions to which a warehouse licence is subject

(1) The Comptroller-General of Customs may, at any time, impose additional conditions to which the licence is subject if the Comptroller-General of Customs considers the conditions to be necessary or desirable:
  (a) for the protection of the revenue; or

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(b) for the purpose of ensuring compliance with the Customs Acts, any other law of the Commonwealth prescribed by the regulations or a law of a State or Territory prescribed by the regulations; or

(c) for any other purpose.

(2) If the Comptroller-General of Customs imposes conditions under subsection (1):

(a) the Comptroller-General of Customs must, by written notice to the holder of the warehouse licence, notify the holder of the conditions; and

(b) the conditions cannot take effect before:

(i) the end of 30 days after the giving of the notice; or

(ii) if the Comptroller-General of Customs considers that it is necessary for the conditions to take effect earlier—the end of a shorter period specified in the notice.

Note: See section 102AA for the ways in which the notice may be given to the holder of the licence.

82B Comptroller-General of Customs may vary the conditions to which a warehouse licence is subject

(1) The Comptroller-General of Customs may, by written notice to the holder of a warehouse licence, vary:

(a) the conditions specified in the warehouse licence under section 82; or

(b) the conditions imposed under section 82A to which the licence is subject.

Note: See section 102AA for the ways in which the notice may be given to the holder of the licence.

(2) A variation under subsection (1) cannot take effect before:

(a) the end of 30 days after the giving of the notice under that subsection; or

(b) if the Comptroller-General of Customs considers that it is necessary for the variation to take effect earlier—the end of a

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shorter period specified in the notice given under that subsection.

(3) This section does not limit subsection 82(5).

82C Breach of conditions of a warehouse licence

(1) The holder of a warehouse licence must not breach a condition to which the licence is subject under section 82 or 82A (including a condition varied under subsection 82(5) or section 82B).

Penalty: 60 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

83 Duration of warehouse licence

(1) A warehouse licence comes into force on the date on which the licence is granted, unless the Comptroller-General specifies a different date in a written notice given to the applicant, in which case the licence comes into force on the specified date.

(1A) A warehouse licence that is not an excise-equivalent warehouse licence remains in force until the cancellation or expiry of the licence, whichever occurs first.

(1B) For the purposes of subsection (1A), a licence expires at the end of:

(a) unless paragraph (b) of this subsection applies—the next 30 June following the grant of the licence; or

(b) if the licence is renewed one or more times under section 84—subject to that section, the last day of the 12 month-period beginning on the 1 July following the most recent renewal.

(1C) An excise-equivalent warehouse licence remains in force until the licence is cancelled.

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(2) Notwithstanding that a warehouse licence has not been renewed, a Collector may:

(a) permit goods to be placed in the former warehouse; and

(b) permit the removal of goods from the former warehouse, including the removal of goods to a warehouse; and

(c) by notice in writing to the last holder of the licence, require him or her to remove all or specified goods in the former warehouse to a warehouse approved by the Collector; and

(d) take such control of the former warehouse or all or any goods in the former warehouse as may be necessary for the protection of the revenue or for ensuring compliance with the Customs Acts, any other law of the Commonwealth prescribed by the regulations or a law of a State or Territory prescribed by the regulations; and

(e) by notice in writing to the last holder of the licence, require him or her to pay to the Commonwealth in respect of the services of officers required as the result of the licence not having been renewed (including services relating to the supervision of activities in relation to the former warehouse permitted by a Collector, the stocktaking of goods in the former warehouse or the reconciliation of records relating to such goods) such fee as the Comptroller-General of Customs determines having regard to the cost of the services; and

(f) where the last holder of the licence fails to comply with a requirement under paragraph (c) in relation to goods, remove the goods from the former warehouse to a warehouse; and

(g) where goods have been removed in accordance with paragraph (f), by notice in writing to the last holder of the licence, require him or her to pay to the Commonwealth in respect of the cost of the removal such fee as the Comptroller-General of Customs determines having regard to that cost.

Note: See section 102AA for the ways in which the notice may be given to the last holder of the licence.

(3) Subject to subsection (4), if a warehouse licence has not been renewed and goods remain in the former warehouse, the

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Comptroller-General of Customs must publish a notice, by any means the Comptroller-General considers appropriate, informing owners of goods in the former warehouse:

(a) that they are required, within a time specified in the notice or any further time allowed by the Comptroller-General, to:

(i) pay to the Collector duty payable in respect of their goods in the former warehouse; or

(ii) remove their goods in the former warehouse to another place in accordance with permission obtained from the Collector; and

(b) that, if they do not comply with the requirements of the notice, their goods in that former warehouse will be sold.

(4) If the Comptroller-General of Customs is satisfied that all the goods in the former warehouse are the property of the person who held the licence, the Comptroller-General is not required to publish a notice under subsection (3) in relation to the former warehouse. Instead, the Comptroller-General must give a notice to the person informing the person:

(a) that the person is required, within a time specified in the notice or any further time allowed by the Comptroller-General, to:

(i) pay to the Collector duty payable in respect of the person's goods in the former warehouse; or

(ii) remove the person's goods in the former warehouse to another place in accordance with permission obtained from the Collector; and

(b) that, if the person does not comply with the requirements of the notice, the person's goods in the former warehouse will be sold.

Note: See section 102AA for the ways in which the notice may be given to the person.

(5) Where the owner of goods to which a notice under subsection (3) or (4) applies fails to comply with the requirements of the notice within the time specified in the notice or any further time allowed

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by the Comptroller-General of Customs, the goods may be sold by a Collector.

(6) If an amount that the last holder of a licence is required to pay in accordance with a notice under paragraph (2)(e) or (g) is not paid, that amount may be recovered as a debt due to the Commonwealth by action in a court of competent jurisdiction.

84 Renewal of warehouse licences that are not excise-equivalent warehouse licences

(1) The Comptroller-General of Customs must, before the end of a financial year (the ***current financial year***), notify each holder of a warehouse licence, that is not an excise-equivalent warehouse licence, of the terms of this section.

Note: An excise-equivalent warehouse licence remains in force unless it is cancelled.

Licence renewed if holder pays charge before end of current financial year

(2) If the holder pays the warehouse licence charge for the renewal of the licence before the end of the current financial year, the licence is renewed for another period of 12 months beginning on 1 July of the next financial year after the current financial year.

Consequences if charge not paid before end of current financial year

(3) If the holder fails to pay the warehouse licence charge for the renewal of the licence before the end of the current financial year, the licence is taken to be suspended for the period beginning on 1 July of the next financial year after the current financial year and ending at the earlier of the following times:

(a) the time the holder pays the charge;

(b) the end of 30 July of that next financial year.

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Licence renewed if holder pays charge before 30 July of the next financial year

(4) If the holder pays the warehouse licence charge for the renewal of the licence during the period of 30 days beginning on 1 July of the next financial year after the current financial year, the licence is taken to have been renewed for another period of 12 months beginning on 1 July of that next financial year.

Licence expires if holder does not pay charge before 30 July of the next financial year

(5) If the holder fails to pay the warehouse licence charge for the renewal of the licence before the end of 30 July of the next financial year after the current financial year, the licence expires at the end of that 30 July.

Multiple renewals

(6) A warehouse licence that has been renewed under this section may be further renewed.

85 Licence charges

Grant of licence

(1) Subject to subsection (2A), a warehouse licence charge is payable in respect of the grant of a warehouse licence by the person or partnership seeking the grant.

(2) A person or partnership liable to pay a warehouse licence charge in respect of the grant of a warehouse licence must pay the charge in accordance with section 85A.

(2A) A warehouse licence charge is not payable in respect of the grant of an excise-equivalent warehouse licence.

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Renewal of licence

(3) A warehouse licence charge in respect of the renewal of a warehouse licence, that is not an excise-equivalent warehouse licence, is payable by the holder of the licence in accordance with section 84.

85A Payment of warehouse licence charge in respect of grant of warehouse licence

(1) A warehouse licence charge in respect of the grant of a warehouse licence, that is not an excise-equivalent warehouse licence, must be paid in accordance with the regulations.

(2) Without limiting subsection (1), the regulations may make provision for and in relation to the following:

(a) the payment of the charge in instalments;

(b) the day or days before the end of which the charge, or instalments of the charge, must be paid.

86 Suspension of warehouse licences

(1) The Comptroller-General of Customs may give a notice under subsection (1AA) to the holder of a warehouse licence if the Comptroller-General has reasonable grounds for believing that:

(a) one or more of the matters mentioned in any of paragraphs 86(1AC)(a) to (g) exists for each warehouse covered by the licence (whether or not the one or more matters existing for each warehouse are the same); or

(c) where the licence is held by a natural person—that person is not a fit and proper person to hold a warehouse licence; or

(d) where the licence is held by a partnership—a member of the partnership is not a fit and proper person to be a member of a partnership holding a warehouse licence; or

(fa) where the licence is held by a company:

(i) the company is not a fit and proper company to hold a warehouse licence; or

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(ii) a director of the company is not a fit and proper person to be a director of a company holding a warehouse licence; or

(g) a condition, other than a condition that relates to at least one, but not all, of the warehouses covered by the licence, to which the licence is subject has not been complied with; or

(h) an amount of the warehouse licence charge payable in respect of the grant of the licence remains unpaid more than 28 days after the day the amount was due to be paid;

or it otherwise appears to him or her to be necessary for the protection of the revenue, or for the purpose of ensuring compliance with the Customs Acts, any other law of the Commonwealth prescribed by the regulations or a law of a State or Territory prescribed by the regulations, to give the notice.

(1AA) A notice under this subsection:

(a) must state that, if the licence holder wishes to prevent the cancellation of the licence, the holder may, within 7 days after the day on which the notice was given, give to the Comptroller-General of Customs at an address specified in the notice a written statement showing cause why the licence should not be cancelled; and

(aa) must state the reasons for the giving of the notice; and

(b) may, if it appears to the Comptroller-General of Customs to be necessary to do so:

(i) for the protection of the revenue; or

(ii) for ensuring compliance with the Customs Acts, any other law of the Commonwealth prescribed by the regulations, or a law of a State or Territory prescribed by the regulations;

state that the licence is suspended.

Note: See section 102AA for the ways in which the notice may be given to the licence holder.

(1AB) If a notice under subsection (1AA) states that a licence is suspended, the licence is suspended on and from the giving of the notice.

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(1AC) If a warehouse licence covers more than one warehouse, the Comptroller-General of Customs may give a notice under subsection (1AD) to the licence holder if the Comptroller-General has reasonable grounds for believing that:

(a) the physical security of a warehouse covered by the licence is no longer adequate having regard to the matters referred to in paragraph 81(1A)(c); or

(b) the plant and equipment used in a warehouse covered by the licence are such that the protection of the revenue in relation to goods in the warehouse is inadequate; or

(c) a person participating in the management or control of, or in the operations carried out at, a warehouse covered by the licence (whether or not the person is present at the warehouse) is not a fit and proper person to so participate; or

(e) a condition to which the licence is subject that relates to a warehouse covered by the licence has not been complied with; or

(f) the licence holder has not, for a period of at least 3 years, warehoused excise-equivalent goods at a warehouse covered by the licence; or

(g) it is appropriate in all the circumstances to vary the licence to no longer cover a particular warehouse, having regard to the matters covered by subsection (2).

(1AD) A notice under this subsection:

(a) must state that, if the licence holder wants the warehouse licence to continue to cover the warehouse, the licence holder may, within 7 days after the day on which the notice was given, give to the Comptroller-General of Customs at an address specified in the notice a written statement showing cause why the warehouse should continue to be covered by the licence; and

(aa) must state the reasons for the giving of the notice; and

(b) may, if it appears to the Comptroller-General of Customs to be necessary to do so:

(i) for the protection of the revenue; or

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(ii) for ensuring compliance with the Customs Acts, any other law of the Commonwealth prescribed by the regulations or a law of a State or Territory prescribed by the regulations;

state that the licence is suspended in relation to the warehouse.

Note: See section 102AA for the ways in which the notice may be given to the licence holder.

(1AE) If a notice under subsection (1AD) states that a licence is suspended in relation to a warehouse, the licence is suspended in relation to the warehouse on and from the giving of the notice.

(1A) The Comptroller-General of Customs must, in considering whether a person is a fit and proper person for the purposes of paragraph (1)(c) or (d), subparagraph (1)(fa)(ii) or paragraph (1AC)(c), have regard to:

(a) any conviction of the person of an offence against this Act committed:

(i) where the licence has not been renewed—after the grant of the licence or within 10 years immediately preceding the making of the application for the licence; and

(ii) if the licence has been renewed on one or more occasions—after the latest renewal or within 10 years immediately before the latest renewal; and

(b) any conviction of the person of an offence under a law of the Commonwealth, of a State or of a Territory that is punishable by imprisonment for a period of one year or longer, being an offence committed:

(i) where the licence has not been renewed—after the grant of the licence or within 10 years immediately preceding the making of the application for the licence; and

(ii) if the licence has been renewed on one or more occasions—after the latest renewal or within 10 years immediately before the latest renewal; and

(c) whether the person is an undischarged bankrupt; and

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(d) whether the person has been refused a transport security identification card, or has had such a card suspended or cancelled:

(i) where the licence has not been renewed—after the grant of the licence or within 10 years immediately preceding the making of the application for the licence; and

(ii) if the licence has been renewed on one or more occasions—after the latest renewal or within 10 years immediately before the latest renewal.

(1B) The Comptroller-General of Customs must, in considering whether a company is a fit and proper company for the purposes of subparagraph (1)(fa)(i) have regard, in relation to the company, to:

(a) any conviction of the company of an offence against this Act that was:

(i) where the licence has not been renewed—committed after the grant of the licence; or

(ii) if the licence has been renewed on one or more occasions—committed after the latest renewal; or

(iv) committed:

(A) where the licence has not been renewed—within 10 years immediately preceding the making of the application for the licence; and

(B) if the licence has been renewed on one or more occasions—within 10 years immediately before the latest renewal;

and at a time when a person who is a director, officer or shareholder of the company was a director, officer or shareholder of the company; and

(b) any conviction of the company of an offence under a law of the Commonwealth, of a State or of a Territory that is punishable by a fine of $5,000 or more, being an offence that was:

(i) where the licence has not been renewed—committed after the grant of the licence; or

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(ii) if the licence has been renewed on one or more occasions—committed after the latest renewal; or

(iv) committed:

(A) where the licence has not been renewed—within 10 years immediately preceding the making of the application for the licence; and

(B) if the licence has been renewed on one or more occasions—within 10 years immediately before the latest renewal;

and at a time when a person who is a director, officer or shareholder of the company was a director, officer or shareholder of the company; and

(c) the matters mentioned in paragraphs 81(3)(c) and (e).

(2) For the purposes of paragraph (1AC)(g), the matters covered by this subsection are the following:

(a) if the licence is held by a natural person—the experience of the following in operations that are performed upon, or in relation to, goods at a warehouse covered by the licence:

(i) the holder;

(ii) each person, known to the Comptroller-General of Customs, who is participating in the management or control of, or in the operations carried out at, the warehouse (whether or not the person is present at the warehouse);

(b) if the licence is held by a partnership—the experience of the following in operations that are performed upon, or in relation to, goods at a warehouse covered by the licence:

(i) each partner in the partnership;

(ii) each person, known to the Comptroller-General of Customs, who is participating in the management or control of, or in the operations carried out at, the warehouse (whether or not the person is present at the warehouse);

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(c) if the licence is held by a company—the experience of the following in operations that are performed upon, or in relation to, goods at a warehouse covered by the licence:

(i) the company;

(ii) each director of the company;

(iii) each person, known to the Comptroller-General of Customs, who is participating in the management or control of, or in the operations carried out at, the warehouse (whether or not the person is present at the warehouse);

(d) in any case—the holder's operating procedures or processes that apply at a warehouse covered by the licence in relation to goods at the warehouse.

(5) If a warehouse licence is suspended under subsection (1AB) or (1AE), the Comptroller-General of Customs:

(a) may at any time revoke the suspension; and

(b) must revoke the suspension if, within 28 days after the day on which the licence was suspended:

(i) for a suspension under subsection (1AB)—the licence is not cancelled; or

(ii) for a suspension under subsection (1AE)—the licence is not varied to no longer cover the warehouse to which the suspension relates.

(6) Subject to subsection (7), during a period in which a warehouse licence is suspended under subsection (1AB) or (1AE) in relation to a warehouse, a person must not use the warehouse with the intention of warehousing goods.

Penalty: 50 penalty units.

(7) During a period in which a warehouse licence is suspended under subsection (1AB) or (1AE) in relation to a warehouse, a Collector may:

(a) permit goods to be placed in the warehouse; and

(b) permit a process to be carried out in the warehouse; and

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(c) permit the removal of goods from the warehouse, including the removal of goods to another warehouse; and

(d) by notice given to the owner of goods in the warehouse, require the owner to remove his or her goods to another warehouse approved by the Collector; and

(e) take such control of the warehouse or all or any goods in the warehouse as may be necessary for the protection of the revenue or for ensuring compliance with the Customs Acts, any other law of the Commonwealth prescribed by the regulations or a law of a State or Territory prescribed by the regulations; and

(f) by notice in writing to the holder of the licence, require him or her to pay to the Commonwealth in respect of the services of officers required as the result of the suspension, including services relating to the enforcement of the suspension, the supervision of activities in relation to the warehouse permitted by a Collector, the stocktaking of goods in the warehouse or the reconciliation of records relating to such goods, such fee as the Comptroller-General of Customs determines, having regard to the cost of the services.

Note: See section 102AA for the ways in which the notice may be given to the owner of goods or the holder of the licence.

(8) If an amount that the holder of a licence is required to pay in accordance with a notice under paragraph (7)(f) is not paid, that amount may be recovered as a debt due to the Commonwealth by action in a court of competent jurisdiction.

87 Cancellation of warehouse licences

(1) The Comptroller-General of Customs may cancel a warehouse licence if:

(a) the Comptroller-General is satisfied in relation to the licence as to any of the matters mentioned in paragraphs 86(1)(a) to (i); or

(b) the Comptroller-General is satisfied on any other grounds that cancellation of the licence is necessary for the protection of the revenue or for the purpose of ensuring compliance

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with the Customs Acts, any other law of the Commonwealth prescribed by the regulations, or a law of a State or Territory prescribed by the regulations.

(1A) The Comptroller-General of Customs may cancel a warehouse licence if:

(a) the Comptroller-General receives a written request from the holder of the licence that the licence be cancelled on and after a specified day; or

(b) the holder of the licence has applied for the Comptroller-General to vary the licence as mentioned in paragraph 81B(1)(a) and the effect of doing so would be that no place is covered by the licence.

(2) The Comptroller-General of Customs must, under this section, cancel a warehouse licence by notice in writing:

(a) given to the holder of the licence; and

(b) setting out the reasons for the cancellation.

Note: See section 102AA for the ways in which the notice may be given to the holder of the licence.

(4) Subject to subsection (5), if under this section the Comptroller-General of Customs cancels a warehouse licence and goods remain in a place that was a warehouse covered by the licence (a ***former warehouse***), the Comptroller-General must publish a notice, by any means the Comptroller-General considers appropriate, informing owners of goods in the former warehouse:

(a) that they are required, within a time specified in the notice or any further time allowed by the Comptroller-General, to:

(i) pay to the Collector duty payable in respect of their goods in the former warehouse; or

(ii) remove their goods in the former warehouse to another place in accordance with permission obtained from the Collector; and

(b) that, if they do not comply with the requirements of the notice, their goods in the former warehouse will be sold.

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(5) If the Comptroller-General of Customs is satisfied that all the goods in a former warehouse are the property of the person who held the licence, the Comptroller-General is not required to publish a notice under subsection (4) in relation to the former warehouse. Instead, the Comptroller-General must give a notice to the person informing the person:

(a) that the person is required, within a time specified in the notice or any further time allowed by the Comptroller-General, to:

(i) pay to the Collector duty payable in respect of the person's goods in the former warehouse; or

(ii) remove the person's goods in the former warehouse to another place in accordance with permission obtained from the Collector; and

(b) that, if the person does not comply with the requirements of the notice, the person's goods in the former warehouse will be sold.

Note 1: The Comptroller-General of Customs will still need to publish the notice as required by subsection (4) in relation to a former warehouse in respect of which the Comptroller-General is not so satisfied.

Note 2: See section 102AA for the ways in which the notice may be given to the person.

(6) Where the owner of goods to which a notice under subsection (4) or (5) applies fails to comply with the requirements of the notice within the time specified in the notice or any further time allowed by the Comptroller-General of Customs, the goods may be sold by a Collector.

87A Refund of warehouse licence charge on cancellation of a warehouse licence on request

(1) If:

(a) a warehouse licence is cancelled under subsection 87(1A) before the end of a financial year; and

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(b) the person or partnership (the ***former holder***) who held the licence before its cancellation has paid some or all of the warehouse licence charge for that financial year;

the former holder is entitled to a refund of an amount worked out in accordance with the regulations.

(2) If subsection (1) applies and the former holder has paid the warehouse licence charge in respect of the renewal of the licence for the following financial year, the former holder is entitled to a refund of the full amount of that charge.

87B Variation of excise-equivalent warehouse licence to remove warehouse

(1) Subject to subsection (2), the Comptroller-General of Customs may vary an excise-equivalent warehouse licence to no longer cover a particular warehouse if:

(a) the licence covers more than one warehouse; and

(b) the Comptroller-General is satisfied as to any of the matters mentioned in paragraphs 86(1AC)(a) to (g) in relation to the particular warehouse.

(2) The Comptroller-General must not vary a warehouse licence under subsection (1) if the effect of varying the licence would be that no warehouses are covered by the licence.

Note: If this subsection prevents the variation of a licence, the licence may be cancelled (see paragraphs 86(1)(a) and 87(1)(a)).

(3) The Comptroller-General must, under subsection (1), vary a licence by written notice given to the licence holder.

Note: See section 102AA for the ways in which the notice may be given to the licence holder.

(4) If a warehouse licence is varied under subsection (1) to no longer cover a warehouse (a ***former warehouse***), the Collector may:

(a) permit goods to be placed in the former warehouse; and

(b) permit the removal of goods from the former warehouse, including the removal of goods to a warehouse; and

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(c) by notice in writing to the licence holder, require the licence holder to remove all or specified goods in the former warehouse to a warehouse approved by the Collector; and

(d) take such control of the former warehouse or all or any goods in the former warehouse as may be necessary for the protection of the revenue or for ensuring compliance with the Customs Acts, any other law of the Commonwealth prescribed by the regulations, or a law of a State or Territory prescribed by the regulations; and

(e) by notice in writing to the licence holder, require the licence holder to pay to the Commonwealth in respect of the services of officers required as the result of the licence being varied (including services relating to the supervision of activities in relation to the former warehouse permitted by a Collector, the stocktaking of goods in the former warehouse or the reconciliation of records relating to such goods) such fee as the Comptroller-General of Customs determines having regard to the cost of the services; and

(f) if the licence holder fails to comply with a requirement under paragraph (c) of this subsection in relation to goods—remove the goods from the former warehouse to a warehouse; and

(g) if goods have been removed in accordance with paragraph (f) of this subsection—by notice in writing to the licence holder, require the licence holder to pay to the Commonwealth in respect of the cost of the removal such fee as the Comptroller-General of Customs determines having regard to that cost.

Note: See section 102AA for the ways in which the notice may be given to the licence holder.

(5) Subject to subsection (6), if under subsection (1) the Comptroller-General of Customs varies a warehouse licence and goods remain in a former warehouse, the Comptroller-General must publish a notice, by any means the Comptroller-General considers appropriate, informing owners of goods in the former warehouse:

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(a) that they are required, within a time specified in the notice or any further time allowed by the Comptroller-General, to:

(i) pay to the Collector duty payable in respect of their goods in the former warehouse; or

(ii) remove their goods in the former warehouse to another place in accordance with permission obtained from the Collector; and

(b) that, if they do not comply with the requirements of the notice, their goods in the former warehouse will be sold.

(6) If the Comptroller-General of Customs is satisfied that all the goods in a former warehouse are the property of the person who holds the licence, the Comptroller-General is not required to publish a notice under subsection (5) in relation to the former warehouse. Instead, the Comptroller-General must give a notice to the person informing the person:

(a) that the person is required, within a time specified in the notice or any further time allowed by the Comptroller-General, to:

(i) pay to the Collector duty payable in respect of the person's goods in the former warehouse; or

(ii) remove the person's goods in the former warehouse to another place in accordance with permission obtained from the Collector; and

(b) that, if the person does not comply with the requirements of the notice, the person's goods in the former warehouse will be sold.

Note 1: The Comptroller-General of Customs will still need to publish the notice as required by subsection (5) in relation to a former warehouse in respect of which the Comptroller-General is not so satisfied.

Note 2: See section 102AA for the ways in which the notice may be given to the person.

(7) If the owner of goods to which a notice under subsection (5) or (6) applies fails to comply with the requirements of the notice within the time specified in the notice or any further time allowed by the

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Comptroller-General of Customs, the goods may be sold by a Collector.

87C Collector may give directions in relation to warehouse or to goods subject to customs control

(1) A Collector may, for the protection of the revenue or for the purpose of ensuring compliance with the Customs Acts, any other law of the Commonwealth prescribed by the regulations or a law of a State or Territory prescribed by the regulations, give written directions under this section to:

(a) the holder of a warehouse licence; or

(b) a person participating in the management or control of a warehouse covered by a warehouse licence;

in relation to a warehouse covered by the licence or to goods in a warehouse covered by the licence that are subject to customs control (the ***controlled goods***).

(2) A direction under subsection (1) must be a direction:

(a) to move, or not to move, controlled goods within the warehouse; or

(b) about the storage of controlled goods in the warehouse; or

(c) to move controlled goods to another warehouse or a depot; or

(d) about the unpacking from receptacles of controlled goods; or

(e) about the packing into receptacles of controlled goods; or

(f) about the physical security of the warehouse; or

(g) about plant or equipment used in relation to controlled goods; or

(h) to give to the Collector, within the specified period and in the specified manner, specified information in relation to the management of controlled goods; or

(i) to produce to the Collector, within the specified period and in the specified manner, specified documents in relation to the management of controlled goods; or

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(j) to make specified changes, within the specified period, to specified information, or specified documents, in relation to the management of controlled goods.

(3) For the purposes of paragraph (2)(h), (i) or (j), the period specified in the direction must be at least 7 days after the day the direction is given.

(4) A Collector may, for the purpose of:

(a) preventing interference with controlled goods in a warehouse covered by a warehouse licence; or

(b) preventing interference with the exercise of the powers or the performance of the functions of a Collector in respect of a warehouse covered by a warehouse licence or of controlled goods at the warehouse;

give directions, in relation to the controlled goods, to any person at the warehouse.

(5) A person commits an offence if:

(a) the person is given a direction under subsection (1) or (4); and

(b) the person refuses or fails to comply with the direction.

Penalty: 120 penalty units.

(6) A person commits an offence of strict liability if:

(a) the person is given a direction under subsection (1) or (4); and

(b) the person refuses or fails to comply with the direction.

Penalty: 60 penalty units.

(7) This section does not limit the directions that a Collector may give under section 112C.

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89 Death of licence holder

If the holder of a warehouse licence, being a natural person, dies, the licence shall be deemed to be transferred to his or her legal personal representative.

90 Obligations of holders of warehouse licences

(1) The holder of a warehouse licence must, at each warehouse covered by the licence:

(a) stack and arrange goods in the warehouse so that officers have reasonable access to, and are able to examine, the goods;

(b) provide officers with adequate space and facilities for the examination of goods in the warehouse and with devices for accurately measuring and weighing such goods;

(c) if required by a Collector, provide adequate office space and furniture and a telephone service, for the official use of officers performing duties at the warehouse; and

(d) provide sufficient labour and materials for use by a Collector in dealing with goods in the warehouse for the purposes of this Act.

Penalty: 30 penalty units.

(1A) Subsection (1) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(2) A requirement imposed on the holder of a warehouse licence under paragraph (1)(c) shall be set out in a notice in writing given to the holder of the licence.

Note: See section 102AA for the ways in which the notice may be given to the holder of the licence.

91 Access to warehouses

A Collector may, at any time, gain access to and enter, if necessary by force, any warehouse and examine any goods in the warehouse.

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92 Repacking in warehouse

A Collector may, in accordance with the regulations, permit the owner of warehoused goods to sort, bottle, pack or repack those goods.

93 Regauging etc. of goods

Where:

(a) any warehoused goods are examined by an officer or by the owner of the goods with the approval of an officer; and

(b) the examination shows that there has been a decrease in the volume or weight of the goods since they were first entered;

the volume or weight of the goods shall, for the purposes of this Act or any other law of the Commonwealth, be taken to be:

(c) except where paragraph (d) applies—the volume or weight found on that examination; or

(d) where, in the opinion of a Collector, that decrease is excessive—the volume or weight shown in the original entry reduced to an extent that the Collector considers appropriate;

and duty in respect of the goods is payable accordingly.

94 Goods not worth duty may be destroyed

(1) Where a Collector is satisfied that the value of any warehoused goods is less than the amount of duty payable in respect of the goods, he or she may, if requested by the owner of the goods to do so, destroy the goods and remit the duty.

(2) The destruction of warehoused goods under subsection (1) does not affect any liability of the owner of the goods to pay the holder of a warehouse licence any rent or charges payable in respect of the goods.

95 Revaluation

Where a Collector is satisfied that warehoused goods that have been valued for the purposes of this Act in accordance with

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Division 2 of Part VIII have deteriorated in value as the result of accidental damage, the Collector may, if requested by the owner of the goods to do so, cancel that valuation and, for the purposes of this Act and in accordance with Division 2 of Part VIII revalue those goods as at the time of the revaluation.

96 Arrears of warehouse charges

(1) Where any rent or charges in respect of warehoused goods has or have been in arrears for:

(a) except where paragraph (b) applies—6 months; or

(b) where the goods are the unclaimed baggage of a passenger or member of the crew of a ship or aircraft—30 days;

a Collector may sell the goods.

(2) In this section, ***member of the crew*** includes:

(a) in relation to a ship—the master, a mate or an engineer of the ship; and

(b) in relation to an aircraft—the pilot of the aircraft.

96A Outwards duty free shops

(1) In this section:

international flight means a flight, whether direct or indirect, by an aircraft between a place in Australia from which the aircraft takes off and a place outside Australia at which the aircraft lands or is intended to land.

international voyage means a voyage, whether direct or indirect, by a ship between a place in Australia and a place outside Australia.

outwards duty free shop means a warehouse in respect of which the relevant warehouse licence authorises the sale in the warehouse of goods to relevant travellers.

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proprietor, in relation to an outwards duty free shop, means the holder of the warehouse licence that relates to the outwards duty free shop.

relevant traveller means a person:

(a) who intends to make an international flight, whether as a passenger on, or as a pilot or member of the crew of, an aircraft; or

(b) who intends to make an international voyage, whether as a passenger on, or as the master or a member of the crew of, a ship.

(2) Subject to the regulations (if any), a Collector may give permission, in accordance with subsection (3), for goods that are specified in the permission and are sold to a relevant traveller in an outwards duty free shop that is specified in the permission to be:

(a) delivered to the relevant traveller personally for export by him or her when making the international flight or voyage in relation to which he or she is a relevant traveller; and

(b) exported by the relevant traveller when making that flight or voyage without the goods having been entered for export;

and, subject to subsection (13), the permission is authority for such goods to be so delivered and so exported.

(3) Permission under subsection (2) is given in accordance with this subsection if it is in writing and is delivered to the proprietor of the outwards duty free shop to which the permission relates.

(4) Permission under subsection (2) may relate to particular goods, all goods, goods included in a specified class or classes of goods or goods other than goods included in a specified class or classes of goods.

(5) Without limiting the matters that may be prescribed in regulations referred to in subsection (2), those regulations:

(a) may prescribe circumstances in which permission under that subsection may be given;

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(b) may prescribe matters to be taken into account by a Collector when deciding whether to give permission under that subsection; and

(c) may prescribe conditions to which a permission under that subsection is to be subject.

(6) A Collector may, when giving permission under subsection (2) or at any time while a permission under that subsection is in force, impose conditions to which the permission is to be subject, being conditions that, in the opinion of the Collector, are necessary:

(a) for the protection of the revenue; or

(b) for the purpose of ensuring compliance with the Customs Acts, any other law of the Commonwealth prescribed by the regulations or a law of a State or Territory prescribed by the regulations;

and may, at any time, revoke, suspend or vary, or cancel a suspension of, a condition so imposed.

(7) Without limiting the generality of paragraph (5)(c) or subsection (6), a condition referred to in that paragraph or that subsection to which a permission is to be subject may be:

(a) a condition to be complied with by the proprietor of the outwards duty free shop to which the permission relates or by relevant travellers to whom goods to which the permission relates are sold; or

(b) a condition that the permission only applies to sales to relevant travellers who comply with a prescribed requirement or requirements, which may be, or include, a requirement that relevant travellers produce to the proprietor of the outwards duty free shop to which the permission relates or to an employee or agent of that proprietor a ticket or other document, being a document approved by a Collector for the purposes of this paragraph, showing that the relevant traveller is entitled to make the international flight or voyage in relation to which he or she is a relevant traveller; or

(c) a condition that the proprietor of the outwards duty free shop to which the permission relates will keep records specified in

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the regulations and will notify a Collector of all sales made by him or her to which the permission applies.

(8) A condition imposed in respect of a permission under subsection (6) or a revocation, suspension or variation, or a cancellation of a suspension, of such a condition takes effect when notice, in writing, of the condition or of the revocation, suspension or variation, or of the cancellation of the suspension, is given to the proprietor of the outwards duty free shop to which it relates, or at such later time (if any) as is specified in the notice, but does not have effect in relation to any goods delivered to a relevant traveller before the notice was given.

Note: See section 102AA for the ways in which the notice may be given to the proprietor of the shop.

(9) A condition imposed in respect of a permission under paragraph (5)(c) or subsection (6) or a revocation, suspension or variation, or a cancellation of a suspension, of a condition under subsection (6) may relate to all goods to which the permission relates or to particular goods to which the permission relates and may apply either generally or in particular circumstances.

(10) A permission under subsection (2) is subject to:

(a) the condition that the proprietor of the outwards duty free shop to which the permission relates will ensure that relevant travellers to whom goods are delivered in accordance with the permission are aware of any conditions of the permission with which they are required to comply; and

(b) the condition that that proprietor will provide a Collector with proof, in a prescribed way and within a prescribed time, of the export of goods delivered to a relevant traveller in accordance with the permission.

(11) If a person who is required to comply with a condition imposed in respect of a permission under subsection (2) fails to comply with the condition, he or she commits an offence against this Act punishable upon conviction by a penalty not exceeding 60 penalty units.

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(11A) Subsection (11) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(12) Where the proprietor of an outwards duty free shop to which a permission under subsection (2) relates does not produce the proof required by paragraph (10)(b) that goods delivered by him or her to a relevant traveller in accordance with the permission have been exported by that traveller, the goods shall be deemed to have been entered, and delivered, for home consumption by the proprietor, as owner of the goods, on the day on which the goods were delivered to that traveller.

(13) A Collector may, in accordance with the regulations, revoke a permission given under subsection (2) in relation to the sale of goods occurring after the revocation.

(14) Where a Collector makes a decision under subsection (2) refusing to give permission to the proprietor of an outwards duty free shop or under subsection (13) revoking a permission given under subsection (2), the Collector must give the proprietor of the shop written notice of the decision and of the reasons for the decision.

Note: See section 102AA for the ways in which the notice may be given to the proprietor of the shop.

96B Inwards duty free shops

(1) In this section:

international flight means a flight, whether direct or indirect, by an aircraft between a place outside Australia from which the aircraft took off and a place in Australia at which the aircraft landed.

inwards duty free shop means a warehouse in respect of which the relevant warehouse licence authorises the sale in the warehouse of airport shop goods to relevant travellers.

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proprietor, in relation to an inwards duty free shop, means the holder of the warehouse licence that relates to the inwards duty free shop.

relevant traveller means a person who:

(a) has arrived in Australia on an international flight, whether as a passenger on, or as the pilot or a member of the crew of, an aircraft; and

(b) has not been questioned, for the purposes of this Act, by an officer of Customs in respect of goods carried on that flight.

(2) A warehouse licence is not to authorise the sale in the warehouse of airport shop goods to relevant travellers unless the warehouse:

(a) is situated at an airport; and

(b) is so located that passengers on international flights who arrive at that airport would normally have access to the warehouse before being questioned for the purposes of this Act by officers of Customs.

(3) Subject to the regulations (if any), a Collector may give permission, in accordance with subsection (4), for airport shop goods that are specified in the permission and are sold to a relevant traveller in an inwards duty free shop that is specified in the permission to be:

(a) delivered to the relevant traveller; and

(b) taken by the relevant traveller for reporting to an officer of Customs doing duty in relation to clearance under this Act of the personal baggage of the relevant traveller.

(4) Permission under subsection (3) is given in accordance with this subsection if it is in writing and is delivered to the proprietor of the inwards duty free shop to which the permission relates.

(5) Without limiting the matters that may be prescribed in regulations referred to in subsection (3), those regulations:

(a) may prescribe circumstances in which permission under that subsection may be given;

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(b) may prescribe matters to be taken into account by a Collector when deciding whether to give permission under that subsection; and

(c) may prescribe conditions to which a permission under that subsection is to be subject.

(6) A Collector may, when giving permission under subsection (3) or at any time while a permission under that subsection is in force, impose conditions to which the permission is to be subject, being conditions that, in the opinion of the Collector, are necessary:

(a) for the protection of the revenue; or

(b) for the purpose of ensuring compliance with the Customs Acts, any other law of the Commonwealth prescribed by the regulations or a law of a State or Territory prescribed by the regulations;

and may, at any time, revoke, suspend or vary, or cancel a suspension of, a condition so imposed.

(7) Without limiting the generality of paragraph (5)(c) or subsection (6), a condition referred to in that paragraph or that subsection to which a permission is to be subject may be:

(a) a condition to be complied with by the proprietor of the inwards duty free shop to which the permission relates or by relevant travellers to whom goods to which the permission relates are sold; or

(b) a condition that the proprietor of the inwards duty free shop to which the permission relates will keep records specified in the regulations.

(8) A condition imposed in respect of a permission under subsection (6) or a revocation, suspension or variation, or a cancellation of a suspension, of such a condition takes effect when notice in writing of the condition or of the revocation, suspension or variation, or of the cancellation of the suspension, is given to the proprietor of the inwards duty free shop to which it relates, or at such later time (if any) as is specified in the notice, but does not have effect in relation to any goods delivered to a relevant traveller before the notice was given.

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Note: See section 102AA for the ways in which the notice may be given to the proprietor of the shop.

(9) A condition imposed in respect of a permission under paragraph (5)(c) or subsection (6) or a revocation, suspension or variation, or a cancellation of a suspension, of a condition under subsection (6) may relate to all goods to which the permission relates or to particular goods to which the permission relates and may apply either generally or in particular circumstances.

(10) A permission under subsection (3) is subject to the condition that the proprietor of the inwards duty free shop to which the permission relates will ensure that relevant travellers to whom goods are delivered in accordance with the permission are aware of any conditions of the permission with which they are required to comply.

(11) If a person who is required to comply with a condition imposed in respect of a permission under subsection (3) fails to comply with the condition, the person commits an offence against this Act punishable upon conviction by a fine not exceeding 60 penalty units.

(11A) Subsection (11) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(12) A Collector may, in accordance with the regulations, revoke a permission given under subsection (3) in relation to the sale of goods occurring after the revocation.

(13) Where a Collector makes a decision under subsection (3) refusing to give permission to the proprietor of an inwards duty free shop or a decision under subsection (12) revoking a permission given under subsection (3), the Collector must give the proprietor of the shop written notice of the decision and of the reasons for the decision.

Note: See section 102AA for the ways in which the notice may be given to the proprietor of the shop.

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97 Goods for public exhibition

(1) Subject to subsection (3), a Collector may, by writing signed by him or her, grant to the owner of warehoused goods permission to take those goods out of the warehouse for the purpose of public exhibition, testing or a similar purpose without entering the goods for home consumption.

(2) Permission under subsection (1) shall specify the period during which the owner of the relevant goods may keep the goods outside the warehouse.

(3) Permission under subsection (1) for the taking of warehoused goods out of a warehouse shall not be granted unless security has been given to the satisfaction of the Collector for the payment, in the event of the goods not being returned to the warehouse before the expiration of the period specified in the permission, of the duty that would have been payable if the goods had been entered for home consumption on the day on which they were taken out of the warehouse.

98 Goods blended or packaged in warehouse

Subject to the regulations, where a warehouse licence authorizes blending or packaging in a warehouse covered by the licence, goods may be blended or packaged in the warehouse in accordance with, and subject to any relevant conditions of, the licence, and goods so blended or packaged may, subject to the payment of any duty in respect of the goods the payment of which is required by the regulations, be delivered for home consumption.

99 Entry of warehoused goods

(1) Warehoused goods may be entered:

(a) for home consumption; or

(b) for export.

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(2) Subject to sections 69 and 70, the holder of a warehouse licence must not permit warehoused goods to be delivered for home consumption unless:

(a) they have been entered for home consumption; and

(b) an authority to deal with them is in force.

Penalty: 60 penalty units.

(3) Subject to section 96A, the holder of a warehouse licence must not permit goods to be taken from a warehouse covered by the licence for export unless:

(a) they have been entered for export; and

(b) an authority to deal with them is in force; and

(c) if the goods are, or are included in a class of goods that are, prescribed by the regulations—the holder of the relevant warehouse licence has ascertained, from information made available by a Collector, the matters mentioned in paragraphs (a) and (b).

Penalty: 60 penalty units.

(4) An offence for a contravention of subsection (3) is an offence of strict liability.

100 Entry of goods without warehousing with permission of Collector

Applying for permission to enter goods without warehousing

(1) A person may apply to the Department for permission for goods that have been entered for warehousing to be:

(a) further entered in accordance with section 99 without having been warehoused; and

(b) dealt with in accordance with that further entry as if they had been warehoused.

(2) An application under subsection (1) may be made by document or electronically.

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(3) A documentary application must:
  (a) be communicated to the Department by sending or giving it to a Collector; and
  (b) be in an approved form; and
  (c) contain such information as is required by the form; and
  (d) be signed in a manner specified in the form.

(4) An electronic application must communicate such information as is set out in an approved statement.

(5) The Comptroller-General of Customs may approve different forms for documentary applications, and different statements for electronic applications, made under this section in different circumstances or by different classes of persons.

Giving permission to enter goods without warehousing

(6) A Collector must, on receiving an application under subsection (1), by notice in writing given to the person either:
  (a) grant the permission, which has effect accordingly; or
  (b) refuse to grant the permission.

Note: See section 102AA for the ways in which the notice may be given to the person.

Giving particulars of further entry to warehouse licence holder

(7) A person who makes a further entry in accordance with a permission under subsection (6) must, as soon as practicable, give particulars of the further entry to the holder of the warehouse licence for the warehouse in which the goods were intended to have been warehoused.

Penalty: 60 penalty units.

(8) Subsection (7) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

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101 Delivery of warehousing authority

(1) Where the owner of goods receives written authority for warehousing goods in pursuance of an entry for warehousing or written permission under this Act to warehouse the goods, the owner must, as soon as practicable, before the goods are delivered to a warehouse nominated in the authority or permission, deliver the authority or permission to the holder of the warehouse licence by leaving it at the warehouse with a person apparently participating in the management or control of the warehouse.

Penalty: 30 penalty units.

(2) Subsection (1) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

102 Holder of licence to inform Collector of certain matters

(1) Where goods are delivered to a warehouse but documents relating to those goods required to be delivered to the holder of the warehouse licence in accordance with this Act are not so delivered or such documents are so delivered but do not contain sufficient information to enable the holder to make a record relating to the goods that he or she is required to make under this Act, the holder shall, as soon as practicable, inform a Collector of the non-delivery or inadequacy of those documents, as the case may be.

Penalty: 30 penalty units.

(2) Where documents relating to goods to be warehoused in a warehouse are delivered to the holder of the warehouse licence in accordance with this Act but those goods are not received at the warehouse within 7 days after the delivery of the documents, the holder shall, as soon as practicable, inform a Collector of the non-delivery of those goods.

Penalty: 30 penalty units.

(3) Subsections (1) and (2) are offences of strict liability.

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Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

102A Notices to Department by holder of warehouse licence

(1) This section applies only to goods that are, or are included in a class of goods that are, prescribed by the regulations.

(2) If goods are to be released from a warehouse for export, the holder of the warehouse licence must give notice to the Department electronically, within the period that begins at the prescribed time and ends at the prescribed time, stating that the goods are to be released and giving such particulars of the release of the goods as are required by an approved statement.

(3) The holder of a warehouse licence must give the Department notice in accordance with subsection (3A) if:

(a) goods that have previously been released for export from a warehouse covered by the licence are returned to the warehouse; or

(b) excise-equivalent goods that have previously been released for export from a warehouse covered by the licence are returned to a different warehouse covered by that or any other excise-equivalent warehouse licence.

(3A) A notice under subsection (3) must:

(a) be given electronically; and

(b) be given within the period prescribed by the regulations; and

(c) state that the goods have been returned; and

(d) include such particulars of the return of the goods as are required by an approved statement.

(4) A person who contravenes subsection (2) or (3) commits an offence punishable, on conviction, by a penalty not exceeding 60 penalty units.

(5) An offence against subsection (4) is an offence of strict liability.

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102AA Giving of notices

Notices to persons

(1) A notice under this Part from the Comptroller-General of Customs or a Collector to a person must be given to the person by:

(a) sending it by email to the last known email address of the person; or

(b) sending it by other electronic means to the person; or

(c) delivering it personally to the person; or

(d) sending it to the person by pre-paid post or registered post to the person's last known place of residence or business; or

(e) leaving it at:

(i) the person's last known place of residence with some person apparently a resident of that place and apparently not less than 16 years of age; or

(ii) the person's last known place of business with some person apparently employed at that place and apparently not less than 16 years of age; or

(f) for a notice to the holder of a warehouse licence (and in addition to paragraphs (a) to (e))—delivering it personally to a person who, at the time of delivery, apparently participates in the management or control of a warehouse covered by the licence.

Notices to partnerships

(2) A notice under this Part from the Comptroller-General of Customs or a Collector to a partnership must be given to the partnership by:

(a) sending it by email to the last known email address of the partnership or a partner in the partnership; or

(b) sending it by other electronic means to the partnership or a partner in the partnership; or

(c) delivering it personally to a partner in the partnership; or

(d) sending it to the partnership by pre-paid post or registered post to the partnership's last known place of business; or

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(e) leaving it at the partnership's last known place of business with some person apparently employed at that place and apparently not less than 16 years of age; or

(f) for a notice to the holder of a warehouse licence (and in addition to paragraphs (a) to (e))—delivering it personally to a person who, at the time of delivery, apparently participates in the management or control of a warehouse covered by the licence.

Common rule

(3) For the purpose of the application of section 29 of the *Acts Interpretation Act 1901* to the sending by post of a notice under this Part on a person or partnership who holds or held a warehouse licence, if the notice is posted as a letter addressed to the person or partnership at the address of a place that is or was covered by the licence, the notice is taken to be properly addressed.

102AB Disclosure of excise-equivalent warehouse licence information

An officer of Customs must disclose information relating to an excise-equivalent warehouse licence (within the meaning of this Part) to a taxation officer if the officer of Customs reasonably believes that the disclosure is necessary for the purposes of the Commissioner of Taxation performing a function or exercising a power in relation to the register established under subsection 40(1) of the *Excise Act 1901*.

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Part VAAA—Cargo terminals

Division 1—Preliminary

102B Definitions

In this Part:

cargo handler means a person who is involved in any of the following activities at a cargo terminal:

(a) the movement of goods subject to customs control into, within or out of the terminal;

(b) the loading, unloading or handling of goods subject to customs control at the terminal;

(c) the storage, packing or unpacking of goods subject to customs control at the terminal.

cargo terminal means a place (other than a depot to which a depot licence relates or a warehouse to which a warehouse licence relates), within the limits of a port, airport or wharf, where:

(a) goods are located immediately after being unloaded from a ship that:

(i) has taken the goods on board at a place outside Australia; and

(ii) carried the goods to a port or wharf in a State or Territory where some or all of the goods are unloaded; or

(b) goods are located immediately after being unloaded from an aircraft that:

(i) has taken the goods on board at a place outside Australia; and

(ii) carried the goods to an airport in a State or Territory where some or all of the goods are unloaded; or

(c) goods are located immediately before being loaded on a ship or aircraft in which they are to be exported.

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cargo terminal operator, in relation to a cargo terminal, means a person who manages the cargo terminal.

establishment identification, in relation to a cargo handler and a port, airport or wharf, means the handler's identification code provided by a Collector for the port, airport or wharf.

executive officer of a body corporate means a person, by whatever name called and whether or not a director of the body, who is concerned in, or takes part in, the management of the body.

place includes an area, a building and a part of a building.

102BA Meaning of *fit and proper person*

(1) In deciding whether a natural person is a ***fit and proper person*** for the purposes of this Part, the decision-maker must have regard to:

(a) any conviction of the person of an offence against this Act committed within the 10 years immediately before the decision; and

(b) any conviction of the person of an offence punishable by imprisonment for 1 year or longer:

(i) against another law of the Commonwealth; or

(ii) against a law of a State or Territory;

if that offence was committed within the 10 years immediately before the decision; and

(c) whether the person has been refused a transport security card, or has had such a card suspended or cancelled, within the 10 years immediately before the decision; and

(d) if a request has been made of the person under subsection 102CF(2) and the Comptroller-General of Customs is considering giving a direction to the person under Division 5—any misleading statement given by the person in response to the request.

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(2) In deciding whether a company is a ***fit and proper person*** for the purposes of this Part, the decision-maker must have regard to:

(a) any conviction of the company of an offence:

(i) against this Act; or

(ii) if punishable by a fine of 100 penalty units or more—against another law of the Commonwealth, or a law of a State or of a Territory;

committed:

(iii) within the 10 years immediately before the decision; and

(iv) at a time when any person who is presently a director, officer or shareholder of the company was such a director, officer or shareholder; and

(b) whether a receiver of the property, or part of the property, of the company has been appointed; and

(c) whether the company is under administration within the meaning of the *Corporations Act 2001*; and

(d) whether the company has executed, under Part 5.3A of that Act, a deed of company arrangement that has not yet terminated; and

(e) whether the company is under restructuring within the meaning of that Act; and

(f) whether the company has made, under Division 3 of Part 5.3B of that Act, a restructuring plan that has not yet terminated.

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Division 2—Obligations of cargo terminal operators

102C Notifying Department of cargo terminal

(1) The cargo terminal operator of a cargo terminal must notify the Department of:
  (a) the terminal managed by the operator; and
  (b) the terminal's physical address.

(2) A notification must:
  (a) be in a form approved, in writing, by the Comptroller-General of Customs for the purposes of this section; and
  (b) provide all the information, and be accompanied by any documents, required by the form.

102CA Physical security of cargo terminal and goods

(1) The cargo terminal operator of a cargo terminal must ensure:
  (a) adequate physical security of the terminal; and
  (b) adequate security of goods at the terminal.

(2) At a minimum, the following requirements must be met in relation to a cargo terminal:
  (a) the terminal must be protected by:
    (i) adequate fencing; and
    (ii) a monitored alarm system;
  (b) entry or exit to the terminal must be controlled or limited;
  (c) appropriate procedures and methods for ensuring the security of goods at the terminal must be in place.

(3) The cargo terminal operator of a cargo terminal must give the Department written notice of any substantial change that would affect:
  (a) the physical security of the terminal; or
  (b) the security of goods at the terminal.

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(4) A notice must be given at least 30 days before the change occurs, unless the change is required in response to an emergency or disaster, in which case a notice must be given as soon as practicable.

(5) Within 30 days of being requested to do so by an authorised officer, the cargo terminal operator must provide documentation of the procedures and methods in place for ensuring the security of goods at the terminal.

102CB Movement of signs at or near cargo terminal

(1) If an officer of Customs has placed a sign at or near a cargo terminal, the cargo terminal operator of the terminal must ensure that the sign is not concealed, moved or removed without the written approval of an authorised officer.

(2) Subsection (1) does not apply if:
  (a) the sign is temporarily moved while maintenance or construction work is carried out; and
  (b) the sign is moved for no more than 5 days.

102CC Notification requirements relating to goods

(1) The cargo terminal operator of a cargo terminal must, within the time and in the manner mentioned in subsection (2), notify the Department of any of the following events:
  (a) an unauthorised movement of goods subject to customs control in or from the cargo terminal;
  (b) an unauthorised access to goods subject to customs control:
    (i) in the cargo terminal; or
    (ii) on a ship or aircraft within, or adjacent to, the terminal;
  (c) an unauthorised access to an information system, whether electronic or paper based, relating to goods subject to customs control;
  (d) an enquiry relating to goods subject to customs control from a person who does not have a commercial connection with the goods;

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(e) a theft, loss or damage of goods subject to customs control;
(f) a break in and entry, or attempted break in, of the cargo terminal;
(g) a change that may adversely affect the security of the terminal;
(h) a suspected breach of a Customs-related law in the cargo terminal.

(2) The notification of an event must:
(a) be in writing; and
(b) be made as soon as practicable, but not later than 5 days after the cargo terminal operator becomes aware of the event.

102CD Unclaimed goods

(1) The cargo terminal operator of a cargo terminal must notify the Department, within the time and in the manner mentioned in subsection (2), of goods not belonging to the operator that remain at the terminal for more than 30 days.

(2) The notification must:
(a) be in writing, including:
(i) a description of the goods; and
(ii) the date the goods were received; and
(b) be made no later than 35 days after the date the goods were received.

102CE Record keeping requirements

(1) The cargo terminal operator of a cargo terminal must keep a record of each person who enters the terminal.

(2) The record may be kept by electronic means.

(3) The record must include such particulars for each person as are prescribed by the regulations.

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(4) Within 30 days of being requested to do so by an authorised officer, the cargo terminal operator must provide to the officer the records kept under this section for the period specified in the request.

(5) The disclosure of personal information in response to a request by an authorised officer is taken to be a disclosure that is authorised by this Act for the purposes of the *Privacy Act 1988*.

(6) Subsection (1) does not apply in relation to a person who is:
  (a) an employee of the cargo terminal operator; or
  (b) an officer or employee of, or of an authority of, the Commonwealth, a State or a Territory.

102CF Fit and proper person

(1) The cargo terminal operator of a cargo terminal must take all reasonable steps to ensure that:
  (a) the operator is a fit and proper person; and
  (b) if the operator is a body corporate—each executive officer of the body corporate is a fit and proper person.

(2) Within 30 days of being requested to do so by an authorised officer, the cargo terminal operator must provide to the officer information that would support an assessment that:
  (a) the operator is a fit and proper person; and
  (b) if the operator is a body corporate—each executive officer of the body corporate is a fit and proper person.

102CG Adequate training of staff

The cargo terminal operator of a cargo terminal must take all reasonable steps to educate and train its employees or other persons involved in the operator's business to ensure their awareness of the operator's responsibilities and obligations in relation to goods subject to customs control.

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102CH Complying with directions

The cargo terminal operator of a cargo terminal must comply with a written direction given by an authorised officer under section 102EB.

102CI Responsibility to provide facilities and assistance

The cargo terminal operator of a cargo terminal must provide an authorised officer with all reasonable facilities and assistance for the effective exercise of their powers under a Customs-related law.

102CJ Comptroller-General of Customs may impose additional obligations

The Comptroller-General of Customs may, by legislative instrument, impose additional obligations on cargo terminal operators generally if the Comptroller-General of Customs considers the obligations to be necessary or desirable:

(a) for the protection of the revenue; or

(b) for the purpose of ensuring compliance with the Customs Acts, any other law of the Commonwealth prescribed by the regulations or a law of a State or Territory prescribed by the regulations; or

(c) for any other purpose.

102CK Offence—failure to comply with obligations or requirements

(1) A person commits an offence if:

(a) the person is a cargo terminal operator; and

(b) the person fails to comply with an obligation or requirement:

(i) set out in this Division; or

(ii) set out in a legislative instrument made under section 102CJ.

Penalty: 60 penalty units.

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(2) Subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

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Division 3—Obligations of cargo handlers

102D Certain provisions of Division 2 apply

Sections 102CC and 102CF to 102CI apply to a cargo handler in the same way as they apply to a cargo terminal operator.

102DA Unpacking of goods in containers at cargo terminal

If goods are in a container at a cargo terminal, a cargo handler must not allow the container to be unpacked without the written approval of an authorised officer.

102DB Facilitating transhipment or export of goods

If goods are imported into Australia and are subject to customs control, a cargo handler must not facilitate the transhipment or export of the goods without the written approval of an authorised officer.

102DC Using establishment identification when communicating with Department

(1) When communicating electronically with the Department about activities undertaken at a port, airport or wharf, a cargo handler must use his, her or its correct establishment identification for the port, airport or wharf.

(2) Subsection (1) does not apply in relation to a particular port, airport or wharf if a cargo handler has the written approval of an authorised officer for the handler to use a contingency code for the port, airport or wharf.

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102DD Comptroller-General of Customs may impose additional obligations

The Comptroller-General of Customs may, by legislative instrument, impose additional obligations on cargo handlers generally if the Comptroller-General of Customs considers the obligations to be necessary or desirable:

(a) for the protection of the revenue; or

(b) for the purpose of ensuring compliance with the Customs Acts, any other law of the Commonwealth prescribed by the regulations or a law of a State or Territory prescribed by the regulations; or

(c) for any other purpose.

102DE Offence—failure to comply with obligations or requirements

(1) A person commits an offence if:

(a) the person is a cargo handler; and

(b) the person fails to comply with an obligation or requirement:

(i) set out in section 102CC, 102CF, 102CG, 102CH or 102CI; or

(ii) set out in this Division; or

(iii) set out in a legislative instrument made under section 102DD.

Penalty: 60 penalty units.

Note: For subparagraph (b)(i), see section 102D.

(2) Subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

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Division 4—Powers of authorised officers

102E General powers

(1) For the purpose of determining whether a provision of any Customs-related law has been, or is being, complied with, an authorised officer may enter a cargo terminal and exercise the following powers:

(a) the power to inspect any document at the terminal;

(b) the power to take extracts from, or make copies of, any such document;

(c) the power to take into the terminal such equipment and materials as the authorised person requires for the purpose of exercising powers under a Customs-related law in relation to the terminal.

(2) While at a cargo terminal, an authorised officer may:

(a) access electronic equipment at the terminal; and

(b) use a disk, tape or other storage device that:

(i) is at the terminal; or

(ii) can be used with the equipment or is associated with it;

if the authorised officer has reasonable grounds for suspecting that the electronic equipment, disk, tape or other storage device is or contains information relating to a matter mentioned in subsection (3).

(3) For the purposes of subsection (2), the matters are:

(a) the unloading of goods subject to customs control from a ship or aircraft or their movement to a particular part of the cargo terminal; or

(b) the receipt of goods subject to customs control at the cargo terminal; or

(c) access to goods subject to customs control:

(i) in the cargo terminal; or

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(ii) on a ship or aircraft within, or adjacent to, the terminal; or

(d) the security of goods subject to customs control in the cargo terminal; or

(e) where goods subject to customs control are stacked in the terminal; or

(f) ship bay plans relating to the terminal; or

(g) the rostering and attendance of staff at the terminal.

102EA Power to make requests

(1) An authorised officer may request, in writing, that a cargo terminal operator of a cargo terminal:

(a) provide documentation to the officer of the procedures and methods in place for ensuring the security of goods at the terminal; or

(b) provide to the officer the records relating to each person who enters the terminal for the period specified in the request.

(2) An authorised officer may request, in writing, that a cargo terminal operator of a cargo terminal or a cargo handler:

(a) provide information to the officer that would support an assessment that:

(i) the operator or handler is a fit and proper person; and

(ii) if the operator or handler is a body corporate—each executive officer of the body corporate is a fit and proper person; or

(b) give the officer access to electronic equipment at the terminal for the purpose of obtaining information relating to a matter mentioned in subsection 102E(3).

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102EB Power to give directions

Directions relating to cargo terminals

(1) An authorised officer may give a written direction to a cargo terminal operator of a cargo terminal requiring the operator to:
  (a) carry out remedial work at or near the terminal to address security concerns; or
  (b) install a closed-circuit television system for the terminal; or
  (c) keep all footage from a closed-circuit television system.

Directions relating to goods

(2) An authorised officer may give a written direction to:
  (a) a cargo terminal operator of a cargo terminal; or
  (b) a cargo handler in relation to a cargo terminal.

(3) A direction given under subsection (2) may relate to all or any of the following:
  (a) the movement of goods subject to customs control into, within or out of the terminal;
  (b) the loading, unloading or handling of goods subject to customs control at the terminal;
  (c) the storage, packing or unpacking of goods subject to customs control at the terminal.

(4) A direction given under subsection (1) or (2) is not a legislative instrument.

Other directions

(5) An authorised officer may, for the purpose of:
  (a) preventing interference with goods subject to customs control at a cargo terminal; or
  (b) preventing interference with the exercise of the powers or the performance of the functions of the authorised person or another authorised person in respect of a cargo terminal or of goods subject to customs control at the terminal;

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give directions to any person at the terminal.

(6) If a direction is given under subsection (5) in writing, the direction is not a legislative instrument.

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Division 5—Directions to cargo terminal operators or cargo handlers

102F Directions to cargo terminal operators or cargo handlers etc.

(1) The Comptroller-General of Customs may give a written direction to:

(a) a cargo terminal operator; or

(b) if a cargo terminal operator is a body corporate—an executive officer of the operator;

that the person may not be involved, either indefinitely or for a specified period, in any way in the loading, unloading, handling or storage of goods subject to customs control in the terminal.

(2) The Comptroller-General of Customs may give a written direction to:

(a) a cargo handler; or

(b) if a cargo handler is a body corporate—an executive officer of the handler;

that the person may not be involved, either indefinitely or for a specified period, in any way in the loading, unloading, handling or storage of goods subject to customs control in a cargo terminal specified in the direction.

(3) Before giving a direction, the Comptroller-General of Customs must be satisfied that:

(a) the person to whom the direction will be given is not a fit and proper person; or

(b) the direction is necessary:

(i) for the protection of the revenue; or

(ii) for the purpose of ensuring compliance with the Customs Acts, any other law of the Commonwealth prescribed by the regulations or a law of a State or Territory prescribed by the regulations.

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102FA Offence—failure to comply with direction

(1) A person commits an offence if:

(a) the person is given a direction under section 102F; and

(b) the person fails to comply with the direction.

Penalty: 100 penalty units.

(2) Subsection (1) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

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Part VA—Special provisions relating to beverages

103 Interpretation

In this Part:

bulk container means a container that has the capacity to have packaged in it more than 2 litres of customable beverage.

container means any article capable of holding liquids.

customable beverage means like customable goods:

(a) that are described in Chapter 22 of Schedule 3 to the Customs Tariff; and

(b) that are prescribed by the regulations for the purposes of this definition.

104 Customable beverage imported in bulk must be entered for warehousing

All customable beverage imported into Australia in bulk containers must initially be entered for warehousing under subsection 68(2) or (3).

105 Certain customable beverage not to be entered for home consumption in bulk containers without approval of Comptroller-General of Customs

(1) Customable beverage that has been imported into Australia in bulk containers and entered for warehousing must not be entered for home consumption unless:

(a) the customable beverage has been repackaged in containers other than bulk containers; or

(b) the Comptroller-General of Customs, by notice in writing, permits the customable beverage to be entered for home consumption packaged in bulk containers.

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(2) The Comptroller-General of Customs must not permit customable beverage that has been imported into Australia in bulk containers and initially entered for warehousing to be subsequently entered for home consumption purposes in bulk containers unless:

(a) the containers have a capacity of not more than 20 litres or such other volume as the Comptroller-General of Customs approves in writing; and

(b) the Comptroller-General of Customs is satisfied that the customable beverage will not be repackaged in any other container for the purposes of retail sale.

105A Delivery from customs control of brandy, whisky or rum

(1) Brandy, whisky or rum imported into Australia must not be delivered from customs control unless a Collector is satisfied that it has been matured by storage in wood for at least 2 years.

(2) In this section:

brandy means a spirit distilled from grape wine in such a manner that the spirit possesses the taste, aroma and other characteristics generally attributed to brandy.

grape wine has the same meaning as in Subdivision 31-A of the *A New Tax System (Wine Equalisation Tax) Act 1999*.

rum means a spirit obtained by the distillation of a fermented liquor derived from the products of sugar cane, being distillation carried out in such a manner that the spirit possesses the taste, aroma and other characteristics generally attributed to rum.

whisky means a spirit obtained by the distillation of a fermented liquor of a mash of cereal grain in such a manner that the spirit possesses the taste, aroma and other characteristics generally attributed to whisky.

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Part VAA—Special provisions relating to excise-equivalent goods

105B Extinguishment of duty on excise-equivalent goods

Extinguishing duty on excise-equivalent goods

(1) The liability to pay import duty on excise-equivalent goods is wholly or partly extinguished if:

(a) the goods are entered for warehousing; and

(b) excisable goods are manufactured and the excise-equivalent goods are used in that manufacture; and

(c) the excise-equivalent goods are subject to customs control at the time they are used in that manufacture; and

(d) that manufacture occurs at a place that is both:

(i) a warehouse covered by a warehouse licence granted under Part V of this Act; and

(ii) premises covered by a manufacturer licence granted under the *Excise Act 1901*.

(1A) The liability is:

(a) wholly extinguished unless paragraph (b) applies; or

(b) if the excise-equivalent goods are a biofuel blend—extinguished except for an amount equal to any duty that would have been payable on the biofuel constituents of the blend if they had not been included in the blend.

(2) The liability is so extinguished at the time the excisable goods are manufactured.

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Exceptions

(3) Subsection (1) does not apply to an amount of duty if:

(a) it is calculated as a percentage of the value of the excise-equivalent goods because of section 9 of the *Customs Tariff Act 1995*; or

(b) the excise-equivalent goods are classified to:

(i) subheading 2207.20.10 (denatured ethanol) or 3826.00.10 (biodiesel) of Schedule 3 to the *Customs Tariff Act 1995*; or

(ii) an item in the table in Schedule 4A, 5, 6, 6A, 7, 8, 8A, 8B, 9, 9A, 10, 10A, 11, 12, 13, 14, 15 or 16 to that Act that relates to a subheading mentioned in subparagraph (i).

Note: Subsection 105C(2) deals with the payment of the amount.

Definitions

(4) In this section:

biofuel blend means goods classified to:

(a) subheading 2710.12.62, 2710.19.22, 2710.20.00, 2710.91.22, 2710.91.62, 2710.91.80, 2710.99.22, 2710.99.62, 2710.99.80, 3824.99.30, 3824.99.40 or 3826.00.20 of Schedule 3 to the *Customs Tariff Act 1995*; or

(b) an item in the table in Schedule 4A, 5, 6, 6A, 7, 8, 8A, 8B, 9, 9A, 10, 10A, 11, 12, 13, 14, 15 or 16 to that Act that relates to a subheading mentioned in paragraph (a).

biofuel constituent, for a biofuel blend, means a constituent of the blend that is:

(a) biodiesel; or

(b) denatured ethanol;

(within the meaning of the subheading of Schedule 3 to the *Customs Tariff Act 1995* to which the blend is classified or relates).

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105C Returns

(1) This section applies if:

(a) excisable goods are manufactured within a manufacture period; and

(b) excise-equivalent goods are used in that manufacture (whether or not in that period); and

(c) the excise-equivalent goods are subject to customs control at the time they are used in that manufacture; and

(d) that manufacture occurs at a place that is both:

(i) a warehouse covered by a warehouse licence granted under Part V of this Act; and

(ii) premises covered by a manufacturer licence granted under the *Excise Act 1901*.

(2) The legal owner of the excise-equivalent goods at the time they are used in that manufacture must:

(a) give the Department a return within 8 days after the end of the manufacture period, providing particulars in accordance with section 71K or 71L in relation to the excise-equivalent goods; and

(b) at the time when each return is given to the Department, pay any amount of duty referred to in paragraph 105B(1A)(b) or subsection 105B(3) that is owing at the rate applicable at the time the excisable goods are manufactured.

Penalty: 60 penalty units.

(3) Subsection (2) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(4) In this section:

manufacture period means:

(a) a 7-day period beginning on a Monday; or

(b) if the regulations prescribe a different period for the purposes of this definition—that period.

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(5) If the regulations do prescribe such a different period, the regulations may also prescribe matters of a transitional nature relating to the change to the different period.

105D GST matters

(1) This section applies if:

(a) excise-equivalent goods are entered for warehousing; and

(b) excisable goods are manufactured and the excise-equivalent goods are used in that manufacture; and

(c) the excise-equivalent goods are subject to customs control at the time they are used in that manufacture.

Taxable importation

(2) For the purposes of the GST Act, the importer of the excise-equivalent goods is taken to have entered them for home consumption at the time the excisable goods are manufactured.

Note: Section 13-5 of the GST Act deals with taxable importations of goods entered for home consumption.

Deferred payment of GST

(3) If the importer of the excise-equivalent goods is an approved entity at the time the excisable goods are manufactured, then for the purposes of the GST Act and the GST regulations the importer is taken to have entered the excise-equivalent goods for home consumption by computer at that time.

Note: Regulations made for the purposes of paragraph 33-15(1)(b) of the GST Act deal with deferred payment of assessed GST on taxable importations and require goods to have been entered for home consumption by computer.

Definitions

(4) In this section:

approved entity means an entity approved under regulations made for the purposes of paragraph 33-15(1)(b) of the GST Act.

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GST regulations means regulations made under the *A New Tax System (Goods and Services Tax) Act 1999*.

105E Use of excise-equivalent goods in the manufacture of excisable goods to occur at a dual-licensed place

A person must not use excise-equivalent goods subject to customs control in the manufacture of excisable goods unless that manufacture occurs at a place that is both:

(a) a warehouse covered by a warehouse licence granted under Part V of this Act; and

(b) premises covered by a manufacturer licence granted under the *Excise Act 1901*.

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Part VB—Information about persons departing Australia

Division 1—Reports on departing persons

Subdivision A—Reports on departing persons

106A Ships and aircraft to which this Subdivision applies

(1) This Subdivision applies to a ship or aircraft of a kind prescribed by regulations made for the purposes of this section, if the ship or aircraft is due to depart:

(a) from a place in Australia at the beginning of a journey to a place outside Australia (whether or not the journey will conclude outside Australia); or

(b) from a place in Australia in the course of such a journey.

(2) Regulations made for the purposes of this section may specify kinds of ships or aircraft by reference to particular matters, including any or all of the following matters:

(a) the type, size or capacity of the ship or aircraft;

(b) the kind of operation or service in which the aircraft or ship will be engaged on journeys from Australia;

(c) other circumstances relating to the ship or aircraft or its use, or relating to the operator of the ship or aircraft.

106B Report 48 hours before ship or aircraft is due to depart

(1) At least 48 hours (but no more than 72 hours) before the time the ship or aircraft is due to depart from the place, the operator of the ship or aircraft must report to the Department, in accordance with Subdivision C, on the persons:

(a) who, at the time the report is made, are expected to be on board the ship or aircraft when it departs from the place; and

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(b) who are not identified (or to be identified) in a report made (or to be made) in relation to the ship's or aircraft's earlier departure from another place in the course of the same journey.

(2) The operator of the ship or aircraft commits an offence if the operator intentionally contravenes subsection (1).

Penalty: 120 penalty units.

(3) The operator of the ship or aircraft commits an offence if the operator contravenes subsection (1).

Penalty: 60 penalty units.

(4) Strict liability applies to an offence against subsection (3).

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

106C Report 4 hours before ship or aircraft is due to depart

(1) At least 4 hours (but no more than 10 hours) before the time the ship or aircraft is due to depart from the place, the operator of the ship or aircraft must report to the Department, in accordance with Subdivision C:

(a) on the persons:

(i) who, at the time the report is made, are expected to be on board the ship or aircraft when it departs from the place; and

(ii) who are not identified in a report made by the operator in relation to the ship's or aircraft's departure from the place under section 106B; and

(iii) who are not identified (or to be identified) in a report made (or to be made) in relation to the ship's or aircraft's earlier departure from another place in the course of the same journey; or

(b) if there are no persons covered by paragraph (a)—that there are no persons to report.

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(2) The operator of the ship or aircraft commits an offence if the operator intentionally contravenes subsection (1).

Penalty: 120 penalty units.

(3) The operator of the ship or aircraft commits an offence if the operator contravenes subsection (1).

Penalty: 60 penalty units.

(4) Strict liability applies to an offence against subsection (3).

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

106D Report just before ship or aircraft departs

(1) Before the ship or aircraft departs from the place, the operator must report to the Department, in accordance with Subdivision C:

(a) on the persons:

(i) who will be on board the ship or aircraft when it departs from the place; and

(ii) who are not identified in a report made by the operator in relation to the ship's or aircraft's departure from the place under section 106B or 106C; and

(iii) who are not identified in a report made in relation to the ship's or aircraft's earlier departure from another place in the course of the same journey; or

(b) if there are no persons covered by paragraph (a)—that there are no persons to report.

(2) The operator of the ship or aircraft commits an offence if the operator intentionally contravenes subsection (1).

Penalty: 120 penalty units.

(3) The operator of the ship or aircraft commits an offence if the operator contravenes subsection (1).

Penalty: 60 penalty units.

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(4) Strict liability applies to an offence against subsection (3).

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

Subdivision B—Reports on matters in approved statement

106E Ships and aircraft to which this Subdivision applies

(1) This Subdivision applies to a ship or aircraft of a kind prescribed by regulations made for the purposes of this section, if the ship or aircraft is due to depart:

(a) from a place in Australia at the beginning of a journey to a place outside Australia (whether or not the journey will conclude outside Australia); or

(b) from a place in Australia in the course of such a journey.

(2) Regulations made for the purposes of this section may specify kinds of ships or aircraft by reference to particular matters, including any or all of the following matters:

(a) the type, size or capacity of the ship or aircraft;

(b) the kind of operation or service in which the aircraft or ship will be engaged on journeys from Australia;

(c) other circumstances relating to the ship or aircraft or its use, or relating to the operator of the ship or aircraft.

106F Reports on matters in approved statement

The operator of the ship or aircraft must report to the Department, in accordance with Subdivision C:

(a) not later than the prescribed period or periods before the ship's or aircraft's departure from a place; or

(b) at the time of a prescribed event or events; or

(c) at the prescribed time or times.

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Subdivision C—How reports under this Division are to be made

106G Reports to be made electronically

(1) A report under this Division must:
  (a) be made:
    (i) electronically, using a system (if any) approved by the Comptroller-General of Customs by legislative instrument for the purposes of this subparagraph; or
    (ii) using a format or method approved by the Comptroller-General of Customs by legislative instrument for the purposes of this subparagraph; and
  (b) contain the information set out in an approved statement.

(2) An operator who reports electronically under subparagraph (1)(a)(i) is taken to have reported to the Department when a Collector sends an acknowledgment of the report to the person identified in the report as having made it.

(3) An operator who reports using a format or method approved under subparagraph (1)(a)(ii) is taken to have reported to the Department when the report is given to an officer doing duty in relation to ships and aircraft due to depart.

(4) The Comptroller-General of Customs may approve different systems, formats or methods under subparagraphs (1)(a)(i) and (ii) to be used for different kinds of operators or in different circumstances.

106H Reports to be made by document if approved electronic system or other approved format or method unavailable

(1) Despite section 106G, if, when an operator is required to report under this Division:
  (a) a system approved under subparagraph 106G(1)(a)(i) is not working; and
  (b) the operator is not able to use a format or method approved under subparagraph 106G(1)(a)(ii);

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the report must:

(c) be made by document in writing; and

(d) be in an approved form; and

(e) contain the information required by the approved form; and

(f) be signed in the manner specified by the approved form; and

(g) be communicated to the Department by sending or giving it to an officer doing duty in relation to the reporting of ships or aircraft due to depart.

(2) A documentary report is taken to have been made when it is sent or given to the Department in the prescribed manner.

106I Comptroller-General of Customs may approve different statements or forms

(1) The Comptroller-General of Customs may approve, under section 4A, different statements for the purposes of this Division, for reports:

(a) made by different kinds of operators; or

(b) relating to different kinds of ships or aircraft; or

(c) made in different circumstances; or

(d) made in relation to different classes of persons who are expected to be, or who will be, on board a ship or aircraft.

(2) The Comptroller-General of Customs may approve, under section 4A, different forms for the purposes of this Division, for reports:

(a) made by different kinds of operators; or

(b) relating to different kinds of ships or aircraft; or

(c) made in different circumstances; or

(d) made in relation to different classes of persons who are expected to be, or who will be, on board a ship or aircraft.

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Division 2—Questions about departing persons

106J Officers may question operators about departing persons

If a ship or aircraft is due to depart or is departing Australia, or has already departed Australia, an officer may require the operator of the ship or aircraft:

(a) to answer questions about the persons who are expected to be on board, or who are or were on board, the ship or aircraft; or

(b) to produce documents relating to those persons.

Note: Failing to answer a question or produce a document when required to do so by an officer may be an offence (see sections 243SA and 243SB).

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Part VI—The exportation of goods

Division 1AAA—Preliminary

107 Obligations under this Part may be satisfied in accordance with a trusted trader agreement

(1) An entity is released from an obligation that the entity would otherwise be required to satisfy under a provision of this Part (other than Division 1) if the obligation:

(a) is of a kind prescribed by rules for the purposes of Part XA; and

(b) is specified in those rules as an obligation from which an entity may be released; and

(c) is specified in a trusted trader agreement between the Comptroller-General of Customs and the entity.

(2) If:

(a) an obligation must be satisfied under a provision of this Part (other than Division 1); and

(b) the obligation:

(i) is of a kind prescribed by rules for the purposes of Part XA; and

(ii) is specified in those rules as an obligation that may be satisfied in a way other than required by this Part; and

(iii) is specified in a trusted trader agreement between the Comptroller-General of Customs and an entity;

then, despite the relevant provision, the entity may satisfy the obligation in the way specified in the trusted trader agreement.

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Division 1—Prohibited exports

112 Prohibited exports

(1) The Governor-General may, by regulation, prohibit the exportation of goods from Australia.

(2) The power conferred by subsection (1) may be exercised:

(a) by prohibiting the exportation of goods absolutely;

(aa) by prohibiting the exportation of goods in specified circumstances;

(b) by prohibiting the exportation of goods to a specified place; or

(c) by prohibiting the exportation of goods unless specified conditions or restrictions are complied with.

(2A) Without limiting the generality of paragraph (2)(c), the regulations:

(aa) may identify the goods to which the regulations relate by reference to their inclusion:

(i) in a list or other document formulated by a Minister and published in the *Gazette* or otherwise; or

(ii) in that list or other document as amended by the Minister and in force from time to time; and

(a) may provide that the exportation of the goods is prohibited unless a licence, permission, consent or approval to export the goods or a class of goods in which the goods are included has been granted as prescribed by the regulations made under this Act or the *Therapeutic Goods Act 1989*; and

(b) in relation to licences or permissions granted as prescribed by regulations made under this Act—may make provision for and in relation to:

(i) the assignment of licences or permissions so granted or of licences or permissions included in a prescribed class of licences or permissions so granted; and

(ii) the granting of a licence or permission to export goods subject to compliance with conditions or requirements,

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either before or after the exportation of the goods, by the holder of the licence or permission at the time the goods are exported; and

(iii) the surrender of a licence or permission to export goods and, in particular, without limiting the generality of the foregoing, the surrender of a licence or permission to export goods in exchange for the granting to the holder of the surrendered licence or permission of another licence or permission or other licences or permissions to export goods; and

(iv) the revocation of a licence or permission that is granted subject to a condition or requirement to be complied with by a person for failure by the person to comply with the condition or requirement, whether or not the person is charged with an offence against subsection (2B) in respect of the failure; and

(v) the revocation of a licence or permission to export goods if the Defence Minister is satisfied that the exportation of the goods would prejudice the security, defence or international relations of Australia.

(2AA) Where a Minister makes an amendment to a list or other document:

(a) that is formulated and published by the Minister; and

(b) to which reference is made in regulations made for the purposes of paragraph (2)(c);

the amendment is a legislative instrument.

(2AB) Regulations made for the purposes of this section may confer on the Minister the power to make provision in relation to a matter by legislative instrument.

(2B) A person commits an offence if:

(a) a licence or permission has been granted, on or after 10 November 1977, under the regulations; and

(b) the licence or permission relates to goods that are not narcotic goods; and

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(c) the licence or permission is subject to a condition or requirement to be complied with by the person; and
(d) the person engages in conduct; and
(e) the person's conduct contravenes the condition or requirement.

Penalty: 100 penalty units.

(2BA) Subsection (2B) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(2BB) Absolute liability applies to paragraph (2B)(a), despite subsection (2BA).

Note: For ***absolute liability***, see section 6.2 of the *Criminal Code*.

(2BC) A person commits an offence if:
(a) a licence or permission has been granted, on or after 10 November 1977, under the regulations; and
(b) the licence or permission relates to goods that are narcotic goods; and
(c) the licence or permission is subject to a condition or requirement to be complied with by the person; and
(d) the person engages in conduct; and
(e) the person's conduct contravenes the condition or requirement.

Penalty: Imprisonment for 2 years or 20 penalty units, or both.

(2BE) Absolute liability applies to paragraph (2BC)(a).

Note: For ***absolute liability***, see section 6.2 of the *Criminal Code*.

(3) Goods the exportation of which is prohibited under this section are prohibited exports.

(4) In this section:

engage in conduct means:
(a) do an act; or

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(b) omit to perform an act.

112A Certain controlled substances taken to be prohibited exports

(1) Subsection (2) applies if a substance or plant is a border controlled drug or a border controlled plant because of a determination made under section 301.13 of the *Criminal Code* (which deals with emergency Ministerial determinations of serious drugs).

Note: ***Border controlled drug*** and ***border controlled plant*** have the same meaning as in Part 9.1 of the *Criminal Code* (see subsection 4(1) of this Act). In that Part, those terms include substances or plants that are, under section 301.13 of the *Criminal Code*, taken, for the purposes of the Part, to be border controlled drugs or border controlled plants only in relation to particular offences against the Part, or particular elements of those offences.

(2) For the period during which the determination has effect, Part 1 of Schedule 8 to the *Customs (Prohibited Exports) Regulations 1958* has effect as if the substance or plant were described as a drug in that Part.

(3) Subsection (4) applies if a substance is a border controlled precursor because of a determination made under section 301.14 of the *Criminal Code* (which deals with emergency Ministerial determinations of serious drug precursors).

Note: ***Border controlled precursor*** has the same meaning as in Part 9.1 of the *Criminal Code* (see subsection 4(1) of this Act). In that Part, that term includes substances that are, under section 301.14 of the *Criminal Code*, taken, for the purposes of the Part, to be border controlled precursors only in relation to particular offences against the Part, or particular elements of those offences.

(4) For the period during which the determination has effect, Part 1 of Schedule 9 to the *Customs (Prohibited Exports) Regulations 1958* has effect as if the substance were described as a precursor substance in that Part.

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112B Invalidation of licence, permission etc. for false or misleading information

A licence, permission, consent or approval granted in respect of the exportation of UN-sanctioned goods is taken never to have been granted if:

(a) an application for the licence, permission, consent or approval was made in an approved form; and

(b) information contained in, or information or a document accompanying, the form:

(i) was false or misleading in a material particular; or

(ii) omitted any matter or thing without which the information or document is misleading in a material particular.

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Division 1AA—Export of goods for a military end-use

112BA Notice prohibiting export

(1) If:

(a) the Defence Minister suspects that, if a person (the ***first person***) were to export particular goods to a particular place or to a particular person, the goods would or may be for a military end-use that would prejudice the security, defence or international relations of Australia; and

(b) the goods are not prohibited exports under section 112;

the Defence Minister may give the first person a notice prohibiting the first person from exporting the goods to the particular place or particular person.

Note: Section 112BB deals with giving notices under this section.

Reasons for notice

(2) A notice given to a person under subsection (1) must set out the Defence Minister's reasons for giving the notice.

(3) The notice must not disclose any reasons whose disclosure the Defence Minister believes would prejudice the security, defence or international relations of Australia.

(4) If reasons are not disclosed in a notice under subsection (1) because of subsection (3), that fact must be stated in the notice.

Period notice in force

(5) A notice given to a person under subsection (1) comes into force at the time the person receives the notice. This subsection is subject to subsection (7).

(6) A notice given to a person under subsection (1) remains in force for the period specified in, or worked out in accordance with, the notice (which must not be more than 12 months), unless revoked earlier.

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Later notices

(7) A notice may be given to a person under subsection (1) while an earlier notice given to the person under subsection (1) is in force. The later notice may be expressed to come into force at the time the earlier notice ceases to be in force.

(8) Subsection (7) does not prevent a notice being given to a person under subsection (1) after an earlier notice given to the person under subsection (1) ceases to be in force.

Notice not a legislative instrument

(9) A notice under subsection (1) is not a legislative instrument.

Revoking a notice

(10) The Defence Minister may, by writing, revoke a notice given to a person under subsection (1).

(11) The Defence Minister must give the person notice of the revocation. The revocation takes effect at the time the person receives the notice.

Note: Section 112BB deals with giving notices under this section.

Offence

(12) A person commits an offence if:

(a) the person exports goods to a particular place or particular person; and

(b) the export contravenes a notice that is in force under subsection (1); and

(c) the person knows of the contravention.

Penalty: Imprisonment for 10 years or 2,500 penalty units, or both.

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Definition

(13) In this section:

military end-use: goods are or may be for a ***military end-use*** if the goods are or may be for use in operations, exercises or other activities conducted by an armed force or an armed group, whether or not the armed force or armed group forms part of the armed forces of the government of a foreign country.

112BB How notices are to be given

(1) A notice given to a person under section 112BA must be given by one of the methods prescribed by the regulations.

(2) If a notice is given to a person under section 112BA by one of those methods, then, for the purposes of this Act, the person is taken to have received the notice at the time prescribed by, or worked out in accordance with, the regulations.

(3) This section has effect despite any provision in the *Electronic Transactions Act 1999*.

112BC Statement to Parliament

As soon as practicable after the end of each financial year, the Defence Minister must cause a statement to be tabled in each House of the Parliament about the exercise of the Defence Minister's powers under this Division during that year (whether or not the statement is part of an annual report).

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Division 1A—Directions in relation to goods for export etc. that are subject to customs control

112C Collector may give directions in relation to goods for export etc. that are subject to customs control

(1) A Collector may give a written direction to move or not move, or about the storage of, goods that are subject to customs control under paragraph 30(1)(b), (c), (d) or (e) if the direction is:

(a) for the protection of the revenue; or

(b) for the purpose of ensuring compliance with the Customs Acts, any other law of the Commonwealth prescribed by the regulations or a law of a State or Territory prescribed by the regulations.

(2) The direction may be given to:

(a) the person who made an export declaration in relation to the goods; or

(b) the owner of the goods; or

(c) if the goods are in a place prescribed for the purposes of paragraph 30(1)(d) or (e)—the person apparently in charge of the place, or part of such a place; or

(d) a person who takes delivery of the goods at a wharf or airport; or

(e) a person engaged to load the goods on a ship or aircraft.

(3) This section does not limit the directions that a Collector may give under section 77Y or 87C.

112D Compliance with a direction given under section 112C

(1) A person commits an offence if:

(a) the person is given a direction under section 112C; and

(b) the person intentionally refuses or fails to comply with the direction.

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Penalty: 120 penalty units.

(2) A person commits an offence if:
(a) the person is given a direction under section 112C; and
(b) the person refuses or fails to comply with the direction.

Penalty: 60 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

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Division 2—Entry and clearance of goods for export

Subdivision A—Preliminary

113 Entry of goods for export

(1) The owner of goods intended for export:

(a) must ensure that the goods are entered for export; and

(b) must not allow the goods:

(i) if the goods are a ship or aircraft that is to be exported otherwise than in a ship or aircraft—to leave the place of exportation; or

(ii) if the goods are other goods—to be loaded on the ship or aircraft in which they are to be exported;

unless:

(iii) an authority to deal with them is in force; or

(iv) the goods are, or are included in a class of goods that are, excluded by the regulations from the application of this paragraph.

Penalty: 60 penalty units.

(1A) An offence against subsection (1) is an offence of strict liability.

(2) Subsection (1) does not apply to:

(a) goods that are accompanied or unaccompanied personal or household effects of a passenger in, or a member of the crew of, a ship or aircraft; and

(b) goods (other than prescribed goods) constituting, or included in, a consignment that:

(i) is consigned by post, by ship or by aircraft from one person to another; and

(ii) has an FOB value not exceeding $2,000 or such other amount as is prescribed.

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(d) containers that are the property of a person carrying on business in Australia and that are exported on a temporary basis to be re-imported, whether empty or loaded; and

(e) containers that are intended for use principally in the international carriage of goods, other than containers that, when exported from Australia, cease, or are intended to cease, to be the property of a natural person resident, or a body corporate incorporated, in Australia; and

(f) goods that, under the regulations, are exempted from this section, either absolutely or on such terms and conditions as are specified in the regulations.

(2A) However, subsection (2) does not exempt from subsection (1) goods for the export of which a permission (however described) is required by an Act or an instrument made under an Act, other than goods or classes of goods prescribed by the regulations for the purposes of this subsection.

(3) For the purposes of paragraph (2)(a), goods:

(a) in quantities exceeding what could reasonably be expected to be required by a passenger or member of the crew of a ship or aircraft for his or her own use; or

(b) that are, to the knowledge or belief of a passenger or a member of the crew of a ship or aircraft, to be sold, or used in the course of trading, outside Australia;

are not included in the personal or household effects of that passenger or crew member.

113AA How an entry of goods for export is made

An entry of goods for export is made by making in respect of the goods an export declaration other than a declaration that a Collector refuses under subsection 114(8) to accept.

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Subdivision B—Export declarations

114 Making an export declaration

(1) An export declaration is a communication to the Department in accordance with this section of information about goods that are intended for export.

(2) An export declaration can be communicated by document or electronically.

(3) A documentary export declaration:
  (a) can be made only by the owner of the goods concerned; and
  (b) must be communicated to the Department by giving or sending it to an officer doing duty in relation to export declarations; and
  (c) must be in an approved form; and
  (d) must contain such information as is required by the form; and
  (e) must be signed by the person making it.

(4) An electronic export declaration must communicate such information as is set out in an approved statement.

(5) If the information communicated to the Department in an export declaration relating to goods adequately identifies any permission (however it is described) that has been given for the exportation of those goods, the identification of the permission in that information is taken, for the purposes of any law of the Commonwealth (including this Act), to be the production of the permission to an officer.

(6) However, subsection (5) does not affect any power of an officer, under this Act, to require the production of a permission referred to in that subsection.

(7) When, in accordance with section 119D, an export declaration is taken to have been communicated to the Department, the goods to which the declaration relates are taken to have been entered for export.

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(8) A Collector may refuse to accept or deal with an export declaration in circumstances prescribed by the regulations.

(9) A Collector must communicate a refusal to accept or deal with an export declaration by notice given by document or electronically to the person who made the declaration.

114A An officer may seek additional information

(1) Without limiting the information that may be required to be included in an export declaration, if an export declaration has been made in respect of goods, authority to deal with the goods in accordance with the declaration may be refused until an officer doing duty in relation to export declarations has verified particulars of the goods shown in the declaration:

(a) by reference to information contained in commercial documents relating to the goods that have been given to the Department by the owner of the goods on, or at any time after, the communication of the declaration to the Department; or

(b) by reference to information, in writing, in respect of the goods that has been so given to the Department.

(2) If an officer doing duty in relation to export declarations believes, on reasonable grounds, that the owner of goods to which an export declaration relates has custody or control of commercial documents, or has, or can obtain, information, relating to the goods that will assist the officer to determine whether this Act has been or is being complied with in respect of the goods, the officer may require the owner:

(a) to deliver to the officer the commercial documents in respect of the goods that are in the owner's possession or under the owner's control (including any such documents that had previously been delivered to an officer and had been returned to the owner); or

(b) to deliver to the officer such information, in writing, relating to the goods (being information of a kind specified in the

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notice) as is within the knowledge of the owner or as the owner is reasonably able to obtain.

(3) A documentary requirement for the delivery of documents or information in respect of an export declaration must:

(a) be communicated to the person by whom, or on whose behalf, the declaration was communicated; and

(b) be in an approved form and contain such particulars as the form requires.

(4) An electronic requirement for the delivery of documents or information in respect of an export declaration must:

(a) be sent electronically to the person who made the declaration; and

(b) communicate such particulars as are set out in an approved statement.

(5) An officer doing duty in relation to export declarations may ask:

(a) the owner of goods in respect of which an export declaration has been made; and

(b) if another person made the declaration on behalf of the owner—the other person;

any questions relating to the goods.

(6) An officer doing duty in relation to export declarations may require the owner of goods in respect of an export declaration that has been made to verify the particulars shown in the export declaration by making a declaration or producing documents.

(7) If:

(a) the owner of goods has been required to deliver documents or information in relation to the goods under subsection (2); or

(b) the owner of, or person who made an export declaration in respect of, goods has been asked a question in respect of the goods under subsection (5); or

(c) the owner of goods has been required under subsection (6) to verify a matter in respect of the goods;

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authority to deal with the relevant goods in accordance with the declaration must not be granted unless:

(d) the requirement referred to in paragraph (a) has been complied with or withdrawn; or

(e) the question referred to in paragraph (b) has been answered or withdrawn; or

(f) the requirement referred to in paragraph (c) has been complied with or withdrawn;

as the case requires.

(8) Subject to section 215, if a person delivers a commercial document to an officer doing duty in relation to export declarations under this section, the officer must deal with the document and then return it to that person.

114B Confirming exporters

(1) A person who:

(a) proposes to make an export declaration relating to particular goods or is likely to make, from time to time, export declarations in relation to goods of a particular kind; and

(b) will be unable to include in the export declaration or export declarations particular information in relation to the goods because the information cannot be ascertained until after the exportation of the goods;

may apply to the Comptroller-General of Customs for confirming exporter status in respect of the information and the goods.

(2) An application under subsection (1) must:

(a) be in writing; and

(b) be in an approved form; and

(c) contain such particulars as are required by the form including the reasons the information referred to in subsection (1) cannot be ascertained before exportation.

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(3) Where a person applies for confirming exporter status in respect of particular information and particular goods or goods of a particular kind, the Comptroller-General of Customs must:

(a) if the Comptroller-General of Customs is satisfied that the information cannot be ascertained before exportation—grant the applicant that status by signing a notice stating:

(i) that the applicant is granted that status in respect of that information and those goods; and

(ii) that the grant is on such conditions as are specified in the notice; or

(b) if the Comptroller-General of Customs is not so satisfied—refuse to grant the applicant that status by signing a notice stating that the Comptroller-General of Customs has refused to grant the applicant that status and setting out the reasons for the refusal.

(4) A grant of confirming exporter status has effect from the day on which the relevant notice is signed.

(5) Without limiting the generality of the conditions to which a grant of confirming exporter status may be subject, those conditions must be expressed to include:

(a) a requirement that the appropriate confirming exporter status will be specified in any export declaration relating to the goods in respect of which the status was granted where the confirming exporter proposes to rely on that status; and

(b) a requirement that full details of the information in respect of which the status was granted will be provided as soon as practicable after exportation and not later than the time the Comptroller-General of Customs indicates in the notice granting the status; and

(c) a requirement that, if information in respect of which the status was granted becomes, to the knowledge of the confirming exporter, able to be ascertained before the exportation of goods in respect of which the status was granted, the confirming exporter will notify the Comptroller-General of Customs forthwith.

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(6) Where the Comptroller-General of Customs is satisfied that information in respect of which confirming exporter status was granted is now able to be ascertained before exportation, he or she must sign a notice in writing:

(a) cancelling the confirming exporter status forthwith; or

(b) modifying the confirming exporter status so that it no longer relates to that information.

(7) Where a person granted a confirming exporter status in respect of information and goods fails to comply with a condition to which the grant is subject, the person commits an offence.

Penalty: 30 penalty units.

(7A) Subsection (7) does not apply if the person has a reasonable excuse.

(7B) Subsection (7) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(8) Where:

(a) a person who is a confirming exporter in respect of information and goods of a particular kind is convicted of an offence against subsection (7); or

(b) the Comptroller-General of Customs becomes satisfied that a person who is such a confirming exporter has failed to comply with a condition of a grant of confirming exporter status although no proceedings for an offence against subsection (7) have been brought against the person;

the Comptroller-General of Customs may:

(c) cancel that person's status in respect of that information and those goods; or

(d) modify that person's status so that it no longer relates to specified information or goods or so that the conditions to which it is subject are altered in a specified respect;

by signing a notice stating that that status has been so cancelled or modified and setting out the reasons for that cancellation or modification.

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(9) A cancellation or modification of the confirming exporter status of a person has effect on the day the relevant notice was signed.

(10) The Comptroller-General of Customs must, as soon as practicable after signing a notice under subsection (3), (6) or (8), serve a copy of the notice on the person concerned but a failure to do so does not alter the effect of the notice.

Subdivision D—General

114C Authority to deal with goods entered for export

(1) If goods have been entered for export by the making of an export declaration in respect of the goods, a Collector must give an export entry advice, satisfying the requirements prescribed by the regulations, that constitutes either:

(a) an authority to deal with the goods to which the entry relates in accordance with the entry; or

(b) a refusal to provide such an authority.

(2) Without limiting the generality of subsection (1), the regulations must require an export entry advice to contain an export entry advice number by which the advice can be identified.

(3) An authority under subsection (1) to deal with goods may be expressed to be subject to a condition that a specified permission for the goods to be dealt with (however it is described) be obtained under another law of the Commonwealth.

(3A) An authority under subsection (1) to deal with goods may be expressed to be subject to a condition that any security required under section 16 of the *Excise Act 1901* be given.

(4) If an authority under subsection (1) to deal with goods is expressed to be subject to a condition that a specified permission be obtained, the authority is taken not to have been given until the permission has been obtained.

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(4A) If an authority under subsection (1) to deal with goods is expressed to be subject to a condition that any security required under section 16 of the *Excise Act 1901* be given, the authority is taken not to have been given until the security has been given.

(5) An officer may, at any time before goods authorised to be dealt with in accordance with an export entry are so dealt with, cancel the authority:

(a) if the authority was given in respect of a documentary declaration, by:

(i) signing a notice stating that the authority is cancelled and setting out the reasons for the cancellation; and

(ii) serving a copy of the notice on the person who made the declaration or, if that person does not have possession of the goods, on the person who has possession of the goods; or

(b) if the authority was given in respect of an electronic declaration—by sending electronically, to the person who made the declaration, a message stating that the authority is cancelled and setting out the reasons for the cancellation.

(6) If, at any time before goods authorised to be dealt with in accordance with an export entry are so dealt with, an officer has reasonable grounds to suspect that the goods have been dealt with in contravention of a Customs-related law, the officer may suspend the authority for a specified period:

(a) if the authority was given in respect of a documentary declaration, by:

(i) signing a notice stating that the authority is so suspended and setting out the reasons for the suspension; and

(ii) serving a copy of the notice on the person who made the declaration or, if that person does not have possession of the goods, on the person who has possession of the goods; or

(b) if the authority was given in respect of an electronic declaration—by sending electronically, to the person who

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made the declaration, a message stating that the authority is so suspended and setting out the reasons for the suspension.

(7) If, during the suspension under subsection (6) of an authority, an officer becomes satisfied that there are no longer reasonable grounds to suspect that the goods have been dealt with in contravention of a Customs-related law, the officer must revoke the suspension:

(a) if the authority was given in respect of a documentary declaration, by:

(i) signing a notice stating that the suspension is revoked; and

(ii) serving a copy of the notice on the person to whom the notice of the suspension was given; or

(b) if the authority was given in respect of an electronic declaration—by sending electronically, to the person to whom the message notifying the suspension was sent, a message stating that the suspension is revoked.

(8) A cancellation or suspension of an authority, or a revocation of a suspension of an authority, has effect from the time when the relevant notice is served or the relevant message is sent, as the case may be.

114CA Suspension of an authority to deal with goods entered for export in order to verify particulars of the goods

(1) An officer may, at any time before goods authorised to be dealt with in accordance with an export entry advice are so dealt with, suspend the authority to deal for a specified period in order to verify particulars of the goods shown in the export declaration made in respect of the goods:

(a) by reference to information contained in commercial documents relating to the goods that have been given to the Department by the owner of the goods on, or at any time after, the communication of the declaration to the Department; or

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(b) by reference to information, in writing, in respect of the goods that has been so given to the Department.

(2) If an officer suspends under subsection (1) an authority to deal that was given in respect of a documentary declaration:

(a) the officer must:

(i) sign a notice that states that the authority is so suspended and sets out the reasons for the suspension; and

(ii) serve a copy of the notice on the person who made the declaration or, if that person does not have possession of the goods, on the person who has possession of the goods; and

(b) the suspension has effect from the time when the notice is served.

(3) If an officer suspends under subsection (1) an authority to deal that was given in respect of an electronic declaration:

(a) the officer must send electronically, to the person who made the declaration, a message that states that the authority is so suspended and sets out the reasons for the suspension; and

(b) the suspension has effect from the time when the message is sent.

114CB Revocation of the suspension of an authority to deal

(1) If an authority to deal has been suspended under subsection 114CA(1), an officer must revoke the suspension if, during the period of suspension, the officer verifies the particulars of the goods shown in the export declaration made in respect of the goods.

(2) If the revocation relates to an authority to deal that was given in respect of a documentary declaration:

(a) the officer must:

(i) sign a notice that states that the suspension is revoked; and

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(ii) serve a copy of the notice on the person to whom the notice of the suspension was given; and

(b) the revocation has effect from the time when the notice is served.

(3) If the revocation relates to an authority to deal that was given in respect of an electronic declaration:

(a) the officer must send electronically, to the person to whom the message notifying the suspension was sent, a message that states that the suspension is revoked; and

(b) the revocation has effect from the time when the message is sent.

114CC An officer may seek additional information if an authority to deal has been suspended

Scope

(1) This section applies if an authority to deal with goods is suspended under subsection 114CA(1) in order to verify particulars of the goods shown in the export declaration made in respect of the goods.

Owner may be required to deliver commercial documents or information

(2) If an officer believes, on reasonable grounds, that the owner of the goods has custody or control of commercial documents relating to the goods, or has or can obtain information relating to the goods, that will assist the officer to verify those particulars, the officer may require the owner:

(a) to deliver to the officer the commercial documents relating to the goods that are in the owner's custody or control (including any such documents that had previously been delivered to an officer and had been returned to the owner); or

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(b) to deliver to the officer such specified information, in writing, relating to the goods as is within the knowledge of the owner or as the owner is reasonably able to obtain.

(3) A documentary requirement for the delivery of documents or information relating to the goods must:

(a) be communicated to the person by whom, or on whose behalf, the export declaration was communicated; and

(b) be in an approved form and contain such particulars as the form requires.

(4) An electronic requirement for the delivery of documents or information relating to the goods must:

(a) be sent electronically to the person who made the export declaration; and

(b) communicate such particulars as are set out in an approved statement.

Officer may ask any questions relating to the goods

(5) An officer may ask:

(a) the owner of the goods; and

(b) if another person made the export declaration on behalf of the owner—the other person;

any questions relating to the goods.

Owner may be required to verify the particulars

(6) An officer may require the owner of the goods to verify the particulars shown in the export declaration by making a declaration or producing documents.

Commercial documents must be returned

(7) Subject to section 215, if a person delivers a commercial document to an officer under this section, the officer must deal with the document and then return it to that person.

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114D Goods to be dealt with in accordance with export entry

(1) The owner of goods in respect of which an export entry has been communicated to the Department:

(a) must, as soon as practicable after an authority to deal with the goods is granted, deal with the goods in accordance with the entry; and

(b) must not remove any of the goods from the possession of the person to whom they are delivered or of any person to whom they are subsequently passed in accordance with the entry unless:

(i) the entry has been withdrawn, or withdrawn in so far as it applies to those goods; or

(ii) a permission to move, alter or interfere with the goods has been given under section 119AA or 119AC.

Penalty: 10 penalty units.

(2) If:

(a) excisable goods on which excise duty has not been paid have been delivered to a place prescribed for the purposes of paragraph 30(1)(d); and

(b) the export entry that applies to those goods is withdrawn, or withdrawn insofar as it applies to those goods;

then, despite any implication to the contrary in subsection (1), the goods become, on communication to the Department of the withdrawal, goods under the Commissioner of Taxation's control under section 61 of the *Excise Act 1901*.

(3) If goods are goods on which Customs duty is payable but has not been paid and the export entry that applies to those goods is withdrawn, or withdrawn in so far as it applies to those goods, then:

(a) despite any implication to the contrary in subsection (1), the goods remain under customs control; and

(b) the withdrawal constitutes a permission, under section 71E, to move the goods back to the place from which they were first moved in accordance with the entry.

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114E Sending goods to a wharf or airport for export

(1) A person (the ***deliverer***) commits an offence if the deliverer delivers goods to a person (the ***deliveree***) at a wharf or airport for export and:

(a) if the goods have been entered for export—neither of the following applies:

(i) an authority to deal with the goods is in force and the deliverer of the goods has, at or before the time of the delivery, given the prescribed particulars to the deliveree in the prescribed manner;

(ii) the goods are, or are included in a class of goods that are, excluded by the regulations from the application of this section and the deliverer has, at or before the time of the delivery, given the prescribed particulars to the deliveree in the prescribed manner; or

(b) if the goods are not required to be entered for export—the deliverer has not, at or before the time of the delivery, given the prescribed particulars to the deliveree in the prescribed manner; or

(c) if the goods have not been entered for export—the deliveree fails to enter the goods for export within the prescribed period after the time of the delivery.

(2) For the purposes of subparagraphs (1)(a)(i) and (ii) and paragraph (1)(b), the regulations may prescribe different particulars according to the kind of deliverer.

(3) The penalty for an offence against subsection (1) is a penalty not exceeding 60 penalty units.

(4) An offence against subsection (1) is an offence of strict liability.

(5) The regulations may prescribe goods, or classes of goods, that are exempt from this section.

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114F Notices to Department by person who receives goods at a wharf or airport for export

(1) This section applies to a person who takes delivery of goods for export at a wharf or airport other than a wharf or airport that is, or is included in a class of wharves or airports that is, excluded by the regulations from the application of this section.

(1A) The person must give notice to the Department electronically, within the period prescribed by the regulations, stating that the person has received the goods and giving such particulars as are required by an approved statement.

(1B) Before the goods are removed from the wharf or airport for a purpose other than loading them onto a ship or aircraft for export, the person must give notice (the ***removal notice***) to the Department electronically:

(a) stating that the goods are to be removed; and

(b) giving such particulars as are required by an approved statement.

If the regulations require the person to give the removal notice at least a specified time before the removal, the person must comply with the requirement.

(2) A person who contravenes subsection (1A) or (1B) commits an offence punishable, on conviction, by a penalty not exceeding 60 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) The regulations may prescribe goods, or classes of goods, that are exempt from this section.

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115 Goods not to be taken on board without authority to deal

(1) The owner of a ship or aircraft must not permit goods required to be entered for export to be taken on board the ship or aircraft for the purpose of export unless:

(a) an authority to deal with the goods is in force under section 114C; or

(b) the goods are, or are included in a class of goods that are, excluded by the regulations from the application of this section.

Penalty: 60 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

116 What happens when goods entered for export by an export declaration are not dealt with in accordance with the export entry

(1) If:

(a) goods are entered for export by the making of an export declaration in respect of the goods; and

(b) none of the goods or some only of the goods have been exported in accordance with the entry at the end of a period of 30 days after the intended day of exportation notified in the entry;

the authority to deal with the goods in accordance with the entry, so far as it relates to goods not exported before the end of the period, is, at the end of the period, taken to have been revoked.

(2) If an authority to deal with goods entered for export is taken, under subsection (1), to have been totally or partially revoked, the owner of the goods must, within 7 days after the end of the period referred to in that subsection:

(a) if the authority to deal was taken to be totally revoked—withdraw the entry relating to the goods; and

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(b) if the authority to deal was taken to be partially revoked—amend the entry so that it relates only to the goods exported before the end of the period.

Penalty: 60 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) If the owner of goods entered for export amends the original entry in accordance with paragraph (2)(b), the owner is, in accordance with subsection 119C(1), taken to have withdrawn the original entry but this Act has effect as if:

(a) the amended entry had been communicated to the Department; and

(b) an authority to deal with the goods to which the amended entry relates in accordance with the amended entry had been granted under section 114C;

on the day, or the respective days, on which the original entry was communicated and the original authority to deal was granted.

117 Security

The Collector may require the owner of any goods entered for export and subject to customs control to give security that the goods will be landed at the place for which they are entered or will be otherwise accounted for to the satisfaction of the Collector.

117AA Consolidation of certain goods for export can only occur at a prescribed place

(1) A person must not consolidate, or take part in the consolidation of, prescribed goods for export unless the consolidation is to be carried out at a place prescribed by the regulations for the purposes of this section.

Penalty: 60 penalty units.

(2) If prescribed goods are received at a place referred to in subsection (1) for the purpose of being consolidated for export, the

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person in charge of the place must give notice electronically to the Department, within the prescribed period after the goods were received at the place, stating that the goods were received and setting out such particulars of the goods as are required by an approved statement.

Penalty: 60 penalty units.

(3) The person in charge of a place referred to in subsection (1) must not permit prescribed goods to be released from the place unless:

(a) the person has ascertained, from information made available by a Collector, that:

(i) the goods have been entered for export; and

(ii) an authority to deal with the goods is in force; or

(b) a permission to move, alter or interfere with the goods has been given under section 119AA or 119AC.

Penalty: 60 penalty units.

(4) If prescribed goods have been released from a place referred to in subsection (1), the person in charge of the place must give notice electronically to the Department, within the prescribed period after the goods were released, stating that the goods were released and giving particulars of the entry and authority referred to in subsection (3) that relates to the goods.

Penalty: 60 penalty units.

(5) An offence for a contravention of this section is an offence of strict liability.

117A Submanifests to be communicated to Department

(1) The person in charge of the place at which the consolidation of goods for exportation by a ship or aircraft is to be carried out must, so as to enable the exportation, prepare and communicate electronically to the Department a submanifest in respect of the goods.

Penalty: 60 penalty units.

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(1A) An offence against subsection (1) is an offence of strict liability.

(2) A submanifest must communicate such information as is set out in an approved statement.

(3) When a submanifest is sent to the Department, a Collector must send to the compiler of the submanifest a notice acknowledging its receipt and giving the compiler a submanifest number for inclusion in any outward manifest purportedly relating to the goods concerned.

118 Certificate of Clearance

(1) The master of a ship or the pilot of an aircraft must not depart with the ship or aircraft from any port, airport or other place in Australia without receiving from the Collector a Certificate of Clearance in respect of the ship or aircraft.

Penalty: 60 penalty units.

(1A) An offence against subsection (1) is an offence of strict liability.

(1B) A Certificate of Clearance in respect of a ship or aircraft may only be granted on application under subsection (2) or (5).

(2) The master of a ship or the pilot of an aircraft may apply to the Collector for a Certificate of Clearance in respect of the ship or aircraft.

Note 1: See subsection (8) for application requirements.

Note 2: Section 118A sets out the requirements for granting a Certificate of Clearance in respect of certain ships or aircraft.

(4) The master and the owner of a ship, or the pilot and the owner of an aircraft, that is at a port, airport or other place in Australia must:

(a) severally answer questions asked by an officer relating to the ship or aircraft and its cargo, stores and voyage; and

(b) severally produce documents requested by an officer that relate to the ship or aircraft and its cargo; and

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(c) comply with such requirements (if any) as are prescribed by the regulations.

(5) If a Certificate of Clearance has not been given to the master of a ship or the pilot of an aircraft within 24 hours after an application is made by the master or pilot under subsection (2), the master or pilot may apply to the Comptroller-General of Customs for a Certificate of Clearance. The decision of the Comptroller-General of Customs on the application is final.

Note 1: See subsection (8) for application requirements.

Note 2: Section 118A sets out the requirements for granting a Certificate of Clearance in respect of certain ships or aircraft.

(6) If, after an application to the Comptroller-General of Customs for a Certificate of Clearance is made under subsection (5), the Comptroller-General of Customs does not grant, or delays granting, the Certificate of Clearance, the owner of the ship or aircraft is entitled, in a court of competent jurisdiction, to recover damages against the Commonwealth in respect of the failure to grant, or the delay in granting, the Certificate, if the court is satisfied that the failure or delay was without reasonable and probable cause.

(7) Except as provided in subsection (6), an action or other proceeding cannot be brought against the Commonwealth, or an officer of the Commonwealth, because of the failure to grant, or because of a delay in granting, a Certificate of Clearance.

(8) An application under subsection (2) or (5) must:
(a) be in writing; and
(b) be in an approved form; and
(c) contain such information as the form requires; and
(d) be signed in the manner indicated in the form.

(9) The Comptroller-General of Customs may approve different forms for applications to be made under subsection (2) or (5) in different circumstances, by different kinds of masters of ships or pilots of aircraft or in respect of different kinds of ships or aircraft.

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118A Requirements for granting a Certificate of Clearance in respect of certain ships or aircraft

(1) This section applies to a ship or aircraft of a kind specified in the regulations.

(2) Before a Certificate of Clearance in respect of the ship or aircraft is granted under section 118, the master or owner of the ship or the pilot or owner of the aircraft must communicate to the Department, in accordance with this section, an outward manifest:

(a) specifying all of the goods (other than goods prescribed for the purposes of section 120) that are on board, or are to be loaded on board, the ship or aircraft at the port, airport or other place in Australia; or

(b) if there are no goods of the kind to which paragraph (a) applies—making a statement to that effect.

(3) An outward manifest may be made by document or electronically.

(4) A documentary outward manifest must:

(a) be in writing; and

(b) be in an approved form; and

(c) be communicated to the Department by sending or giving it to an officer doing duty in respect of the clearance of ships or aircraft; and

(d) contain such information as is required by the form; and

(e) be signed in a manner specified in the form.

(5) An electronic outward manifest must communicate such information as is set out in an approved statement.

119 Communication of outward manifest to Department

(1) If:

(aa) a ship or aircraft departs from a port, airport or other place in Australia; and

(ab) section 118A does not apply to the ship or aircraft;

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the master or owner of the ship, or the pilot or owner of the aircraft, must communicate electronically to the Department, not later than 3 days after the day of departure, or such time as is prescribed in relation to the departure, an outward manifest:

(a) specifying all of the goods, other than goods prescribed for the purposes of section 120, that were loaded on board the ship or aircraft at the port, airport or other place; or

(b) if there were no goods of the kind to which paragraph (a) applies that were loaded on board the ship or aircraft at the port, airport or other place—making a statement to that effect.

(2) An outward manifest must contain such information as is set out in an approved statement.

(3) If subsection (1) is contravened in respect of a ship or aircraft, the master and the owner of the ship, or the pilot and the owner of the aircraft, each commit an offence punishable, on conviction, by a penalty not exceeding 60 penalty units.

(4) An offence against subsection (3) is an offence of strict liability.

119AA Application for permission to move, alter or interfere with goods for export

(1) This section applies to goods if:

(a) the goods are subject to customs control under paragraph 30(1)(b), (c) or (d); and

(b) either:

(i) the goods have been entered for export and an authority to deal with the goods is in force; or

(ii) the goods are the subject of a permission in force under subsection 96A(2).

(2) A person may apply to the Department for permission to move, alter or interfere with the goods in a particular way.

(3) An application under subsection (2) may be made by document or electronically.

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(3A) A documentary application must:

(a) be communicated to the Department by sending or giving it to an officer doing duty in relation to export entries; and

(b) be in an approved form; and

(c) contain such information as is required by the form; and

(d) be signed in a manner specified in the form.

(3B) An electronic application must communicate such information as is set out in an approved statement.

(4) The Comptroller-General of Customs may approve different forms for documentary applications, and different statements for electronic applications, made under this section in different circumstances or by different classes of persons.

(5) If an application is made under subsection (2), an officer may direct the applicant to ensure that the goods are held in the place where they are currently located until a decision is made on the application.

(6) If a direction is not given under subsection (5), or a reasonable period has elapsed since the giving of such a direction to enable the making of an informed decision on the application, an officer must give a message by document, or send a message electronically, to the applicant:

(a) giving the applicant permission to move, alter or interfere with the goods in accordance with the application either unconditionally or subject to such conditions as are specified in the message; or

(b) refusing the application and setting out the reasons for the refusal.

(7) If a person moves, alters or interferes with goods otherwise than in accordance with a relevant permission, the movement of the goods is, for the purposes of paragraph 229(1)(g), taken not to have been authorised by this Act.

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119AB Application for permission to move, alter or interfere with goods that are no longer for export

(1) If goods are subject to customs control under paragraph 30(1)(e), a person may apply to the Department for permission to move, alter or interfere with the goods in a particular way.

(2) An application under subsection (1) may be made by document or electronically.

(3) A documentary application must:
  (a) be communicated to the Department by sending or giving it to an officer doing duty in relation to export entries; and
  (b) be in an approved form; and
  (c) contain such information as is required by the form; and
  (d) be signed in a manner specified in the form.

(4) An electronic application must communicate such information as is set out in an approved statement.

(5) The Comptroller-General of Customs may approve different forms for documentary applications, and different statements for electronic applications, made under this section in different circumstances or by different classes of persons.

119AC Dealing with an application for a permission to move etc. goods that are no longer for export

(1) If an application is made under subsection 119AB(1), an officer may direct the applicant to ensure that the goods to which the application relates are held in the place where they are currently located until a decision is made on the application.

(2) If a direction is not given under subsection (1) of this section, or a reasonable period has elapsed since the giving of such a direction to enable the making of an informed decision on the application, an officer must give a message by document, or send a message electronically, to the applicant:

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(a) giving the applicant permission to move, alter or interfere with the goods in accordance with the application either unconditionally or subject to such conditions as are specified in the message; or

(b) refusing the application and setting out the reasons for the refusal.

(3) If a person moves, alters or interferes with goods otherwise than in accordance with a permission under subsection (2) of this section, the movement of the goods is, for the purposes of paragraph 229(1)(g), taken not to have been authorised by this Act.

119A Withdrawal of entries, submanifests and manifests

(1) At any time after an export entry, a submanifest or an outward manifest is communicated to the Department and before the goods to which it relates are exported, a withdrawal of the entry, submanifest or manifest may be communicated to the Department:

(a) in the case of a withdrawal of an entry that was communicated to the Department by document—by document; or

(b) in any other case—electronically.

(2) A documentary withdrawal of an entry must:

(a) be communicated by the person by whom, or on whose behalf, the entry was communicated; and

(b) be communicated to the Department by giving it to an officer doing duty in relation to export entries; and

(c) be in an approved form; and

(d) contain such information as is required by the form; and

(e) be signed in a manner specified in the form.

(3) An electronic withdrawal of an entry, submanifest or manifest must communicate such information as is set out in an approved statement.

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(4) A withdrawal of an entry, submanifest or manifest has effect when, in accordance with section 119D, it is communicated to the Department.

119B Effect of withdrawal

(1) When a withdrawal of an export entry takes effect, any authority to deal with the goods to which the entry relates is revoked.

(2) Despite the withdrawal of an entry, submanifest or manifest:

(a) a person may be prosecuted in respect of the entry, submanifest or manifest; and

(b) a penalty may be imposed on a person who is convicted of an offence in respect of the entry, submanifest or manifest;

as if it had not been withdrawn.

(2A) Despite the withdrawal of an entry, submanifest or manifest, an infringement notice may be given to a person in respect of the entry, submanifest or manifest as if it had not been withdrawn.

(3) The withdrawal of a documentary entry the original of which was sent or given to an officer does not entitle the person who communicated it to have it returned.

119C Change of electronic entries and change of submanifests and manifests treated as withdrawals

(1) If a person who has communicated an electronic export entry changes information included in that entry, the person is taken, at the time when an export entry advice is communicated in respect of the altered entry, to have withdrawn the entry as it previously stood.

(2) If a person who has communicated a submanifest or an outward manifest changes information included in the submanifest or manifest, the person is taken, at the time when an acknowledgment of the altered submanifest or altered manifest, as the case requires, is communicated, to have withdrawn the submanifest or manifest as it previously stood.

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119D Notification of export entries, submanifests, manifests, withdrawals and applications

(1) For the purposes of this Act, a documentary export entry, or a documentary withdrawal of such an entry, may be sent to an officer referred to in subsection 114(3) or 119A(2) in any manner prescribed and, when so sent, is taken to have been communicated to the Department at such time, and in such circumstances, as are prescribed.

(2) For the purposes of this Act, an electronic export entry, or an electronic withdrawal of such an entry, or a submanifest, an outward manifest, or a withdrawal of such a submanifest or manifest, that is sent to the Department is taken to have been communicated to the Department when an export entry advice or an acknowledgment of receipt of the submanifest, manifest or withdrawal is sent to the person who sent the entry, submanifest, manifest or withdrawal.

(3) For the purposes of this Act, a documentary application or an electronic application under section 119AA or 119AB is taken to have been communicated to the Department when an acknowledgment of the application is sent or given by a Collector to the person who sent or gave the application.

119E Requirements for communicating to Department electronically

A communication that is required or permitted by this Division to be made to the Department electronically must:

(a) be signed by the person who makes it (see paragraph 126DA(1)(c)); and

(b) otherwise meet the information technology requirements determined under section 126DA.

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120 Shipment of goods

The master of a ship or the pilot of an aircraft shall not suffer to be taken on board his or her ship or aircraft any goods other than:

(a) goods which are specified or referred to in the Outward Manifest; and

(b) goods prescribed for the purpose of this section.

Penalty: 100 penalty units.

122 Time of clearance

Except as prescribed, no Certificate of Clearance shall be granted for any ship or aircraft unless all her inward cargo and stores shall have been duly accounted for to the satisfaction of the Collector nor unless all the other requirements of the law in regard to such ship or aircraft and her inward cargo have been duly complied with.

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Division 3A—Examining goods for export that are not yet subject to customs control

122F Object of Division

(1) The object of this Division is to confer powers on authorised officers to enter premises and examine goods that are reasonably believed to be intended for export.

(2) The powers are exercisable before the goods become subject to customs control and are conferred for the purpose of enabling officers to assess whether the goods meet the requirements of a Customs-related law relating to exports.

(3) The powers are exercisable only with the consent of the occupier of the premises at which the goods are situated.

(4) The Comptroller-General of Customs must not authorise an officer to exercise powers under this Division unless the Comptroller-General of Customs is satisfied that the officer is suitably qualified, because of the officer's abilities and experience, to exercise those powers.

122G Occupier of premises

In this Part:

occupier of premises includes a person who is apparently in charge of the premises.

122H Consent required to enter premises and examine goods for export

(1) Subject to section 122J, an authorised officer may enter premises, and exercise the powers conferred by the other sections of this Division in or on the premises, in accordance with this section.

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(2) The authorised officer must believe on reasonable grounds that there are, or have been, in or on particular premises goods (the ***export goods***) that the authorised officer reasonably believes are intended to be exported.

(3) The premises must not be a place prescribed for the purposes of paragraph 30(1)(d) or (e), or part of such a place.

Note 1: Paragraph 30(1)(d) subjects to customs control goods that are made or prepared in, or brought to, a prescribed place for export.

Note 2: Paragraph 30(1)(e) subjects to customs control goods made or prepared in, or brought into, a prescribed place for export that are no longer for export.

(4) The occupier of the premises must have consented in writing to the entry of the authorised officer to the premises and the exercise of the powers in or on the premises.

(5) Before obtaining the consent, the authorised officer must have told the occupier that he or she could refuse consent.

(6) Before the authorised officer enters the premises or exercises any of the powers, he or she must produce his or her identity card to the occupier.

122J Officer must leave premises if consent withdrawn

(1) An authorised officer who has entered premises under section 122H must leave the premises if the occupier withdraws his or her consent.

(2) A withdrawal of a consent does not have any effect unless it is in writing.

122K Power to search premises for export goods

The authorised officer may search the premises for the export goods and documents relating to them.

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122L Power to examine export goods

(1) While the authorised officer is in or on the premises, he or she may inspect, examine, count, measure, weigh, gauge, test or analyse, and take samples of, the export goods.

(2) The authorised officer may remove from the premises any samples taken, and arrange for tests or analyses to be conducted on them elsewhere.

122M Power to examine documents relating to export goods

The authorised officer may examine and take extracts from, or make copies of, documents that are in or on the premises and relate to the export goods.

122N Power to question occupier about export goods

If the authorised officer is in or on the premises because the occupier consented to the officer's entry, the officer may request the occupier:

(a) to answer questions about the export goods; and

(b) to produce to the officer documents that are in or on the premises and relate to the export goods;

but the occupier is not obliged to comply with the request.

122P Power to bring equipment to the premises

The authorised officer may bring into or onto the premises equipment and materials for exercising a power described in section 122K, 122L or 122M.

122Q Compensation

(1) If a person's property is damaged as a result of an exercise of a power under this Division, the person is entitled to compensation of a reasonable amount payable by the Commonwealth for the damage.

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(2) The Commonwealth must pay the person such reasonable compensation as the Commonwealth and the person agree on. If they fail to agree, the person may institute proceedings in the Federal Court of Australia for such reasonable amount of compensation as the Court determines.

(3) In determining the amount of compensation payable, regard is to be had to whether the occupier of the premises and the employees or agents of the occupier, if they were available at the time, had provided any warning or guidance that was appropriate in the circumstances.

122R Powers in this Division are additional to other powers

The powers of an authorised officer under this Division do not limit powers under other provisions of this Act or under provisions of other Acts.

Example: Some other provisions and Acts giving similar powers are Parts III and XII of this Act, and the *Commerce (Trade Descriptions) Act 1905* and the *Export Control Act 2020*.

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Division 4—Exportation procedures after Certificate of Clearance issued

123 Ship to bring to and aircraft to stop at boarding stations

(1) The master of every ship departing from any port shall bring his or her ship to at a boarding station appointed for the port and by all reasonable means facilitate boarding by the officer, and shall not depart with his or her ship from any port with any officer on board such ship in the discharge of his or her duty without the consent of such officer.

Penalty: 30 penalty units.

(2) The pilot of every aircraft departing from any airport shall bring his or her aircraft to a boarding station appointed for the port or airport, and by all reasonable means facilitate boarding by the officer, and shall not depart with his or her aircraft from any port or airport with any officer on board such aircraft without the consent of such officer.

Penalty: 30 penalty units.

(3) Subsections (1) and (2) are offences of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

124 Master or pilot to account for missing goods

(1) The master of every ship and the pilot of every aircraft after clearance shall:

(a) on demand by an officer produce the Certificate of Clearance;

(b) account to the satisfaction of the Collector for any goods specified or referred to in the Outward Manifest and not on board his or her ship or aircraft.

Penalty: 100 penalty units.

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(2) Subsection (1) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

125 Goods exported to be landed at proper destination

(1) No goods shipped for export shall be unshipped or landed except in parts beyond the seas.

Penalty: 250 penalty units.

(2) Subsection (1) does not apply if the goods are unshipped or landed with the permission of the Collector.

(3) Subsection (1) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

126 Certificate of landing

If required by the Comptroller-General of Customs a certificate in the approved form and to be given by such person as may be prescribed shall be produced in proof of the due landing according to the export entry of any goods subject to customs control, and the Collector may refuse to allow any other goods subject to customs control to be exported by any person who fails within a reasonable time to produce such certificate of the landing of any such goods previously exported by him or her or to account for such goods to the satisfaction of the Collector.

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Division 4A—Exportation of goods to Singapore

126AAA Definitions

In this Division:

Singaporean customs official means a person representing the customs administration of Singapore.

126AB Record keeping obligations

Regulations may prescribe record keeping obligations

(1) The regulations may prescribe record keeping obligations that apply in relation to goods that:
  (a) are exported to Singapore; and
  (b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in Singapore.

On whom obligations may be imposed

(2) Regulations for the purposes of subsection (1) may impose such obligations on a producer or exporter of goods.

126AC Power to require records

Requirement to produce records

(1) An authorised officer may require a person who is subject to record keeping obligations under regulations made for the purposes of section 126AB to produce to the officer such of those records as the officer requires.

Disclosing records to Singapore

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in Singapore, disclose any records so produced to a Singaporean customs official.

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126AD Power to ask questions

Power to ask questions

(1) An authorised officer may require a person who is an exporter or producer of goods that:

(a) are exported to Singapore; and

(b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in Singapore;

to answer questions in order to verify the origin of the goods.

Disclosing answers to Singapore

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in Singapore, disclose any answers to such questions to a Singaporean customs official.

Authorised Version C2026C00431 registered 01/10/2026

Division 4B—Exportation of textile or apparel goods to the US

126AE Authorised officer may request records or ask questions

(1) If goods that are a textile or apparel good are exported to the US, an authorised officer may request a person who:

(a) is the exporter or producer of the goods; or

(b) is involved in the transportation of the goods from Australia to the US;

to produce particular records, or to answer questions put by the officer, in relation to the export, production or transportation of the goods.

(2) The person is not obliged to comply with the request.

Disclosing records or answers to US

(3) An authorised officer may disclose any records so produced, or disclose any answers to such questions, to a US customs official for the purpose of a matter covered by Article 4.3 of the Agreement.

Definitions

(4) In this section:

Agreement means the Australia-United States Free Trade Agreement done at Washington DC on 18 May 2004, as amended from time to time.

Note: In 2004 the text of the Agreement was accessible through the website of the Department of Foreign Affairs and Trade.

Harmonized System has the same meaning as in section 153YA.

textile or apparel good has the meaning given by Article 1.2 of Chapter 1 of the Agreement.

Authorised Version C2026C00431 registered 01/10/2026

US means the United States of America.

US customs official means a person representing the customs administration of the US.

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Division 4C—Exportation of goods to Thailand

126AF Definitions

In this Division:

producer has the same meaning as in Division 1D of Part VIII.

Thai customs official means a person representing the customs administration of Thailand.

126AG Record keeping obligations

Regulations may prescribe record keeping obligations

(1) The regulations may prescribe record keeping obligations that apply in relation to goods that:
  (a) are exported to Thailand; and
  (b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in Thailand.

On whom obligations may be imposed

(2) Regulations for the purposes of subsection (1) may impose such obligations on a producer or exporter of goods.

126AH Power to require records

Requirement to produce records

(1) An authorised officer may require a person who is subject to record keeping obligations under regulations made for the purposes of section 126AG to produce to the officer such of those records as the officer requires.

Note: Failing to produce a record when required to do so by an officer may be an offence: see section 243SB. However, a person does not have to produce a record if doing so would tend to incriminate the person: see section 243SC.

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Disclosing records to Thai customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in Thailand, disclose any records so produced to a Thai customs official.

126AI Power to ask questions

Power to ask questions

(1) An authorised officer may require a person who is an exporter or producer of goods that:

(a) are exported to Thailand; and

(b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in Thailand;

to answer questions in order to verify the origin of the goods.

Note: Failing to answer a question when required to do so by an officer may be an offence: see section 243SA. However, a person does not have to answer a question if doing so would tend to incriminate the person: see section 243SC.

Disclosing answers to Thai customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in Thailand, disclose any answers to such questions to a Thai customs official.

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Division 4D—Exportation of goods to New Zealand

126AJA Definitions

In this Division:

manufacture means the creation of an article essentially different from the matters or substances that go into that creation.

New Zealand customs official means a person representing the customs administration of New Zealand.

principal manufacturer of goods means the person in Australia who performs, or has had performed on the person's behalf, the last process of manufacture of the goods, where that last process was not a restoration or renovation process such as repairing, reconditioning, overhauling or refurbishing.

producer means a person who grows, farms, raises, breeds, mines, harvests, fishes, traps, hunts, captures, gathers, collects, extracts, manufactures, processes, assembles, restores or renovates goods.

126AJB Record keeping obligations

Regulations may prescribe record keeping obligations

(1) The regulations may prescribe record keeping obligations that apply in relation to goods that:
  (a) are exported to New Zealand; and
  (b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in New Zealand.

On whom obligations may be imposed

(2) Regulations made for the purposes of subsection (1) may impose such obligations on the exporter, the principal manufacturer or a producer of the goods.

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126AJC Power to require records

Requirement to produce records

(1) An authorised officer may require a person who is subject to record keeping obligations under regulations made for the purposes of section 126AJB to produce to the officer such of those records as the officer requires.

Note: Failing to produce a record when required to do so by an officer may be an offence: see section 243SB. However, a person does not have to produce a record if doing so would tend to incriminate the person: see section 243SC.

Disclosing records to New Zealand customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in New Zealand, disclose any records so produced to a New Zealand customs official.

126AJD Power to ask questions

Power to ask questions

(1) An authorised officer may require a person who is the exporter, the principal manufacturer or a producer of goods that:

(a) are exported to New Zealand; and

(b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in New Zealand;

to answer questions in order to verify the origin of the goods.

Note: Failing to answer a question when required to do so by an officer may be an offence: see section 243SA. However, a person does not have to answer a question if doing so would tend to incriminate the person: see section 243SC.

Disclosing answers to New Zealand customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in New Zealand, disclose any answers to such questions to a New Zealand customs official.

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Division 4EAA—Exportation of goods to Parties to the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area

126AKDA Definitions

In this Division:

AANZ customs official, for a Party, means a person representing the customs authority of that Party.

Agreement means the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area, done at Thailand on 27 February 2009, as amended and in force for Australia from time to time.

Note: The Agreement is in Australian Treaty Series 2010 No. 1 ([2010] ATS 1) and could in 2024 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).

approved exporter database means the approved exporter database referred to in paragraph 3 of Rule 15 of Annex 3A to Chapter 3 of the Agreement.

customs authority has the meaning given by Article 3 of Chapter 4 of the Agreement.

Declaration of Origin means a Declaration of Origin referred to in paragraph 1 of Rule 1 of Annex 3A to Chapter 3 of the Agreement.

Party means a Party (within the meaning of the Agreement) for which the Agreement has entered into force.

producer means a person who engages in the production of goods.

production has the meaning given by Article 1 of Chapter 3 of the Agreement.

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126AKDB Record keeping obligations

Regulations may prescribe record keeping obligations

(1) The regulations may prescribe record keeping obligations that apply in relation to goods that are:
  (a) exported to a Party; and
  (b) claimed to be originating goods, in accordance with Chapter 3 of the Agreement, for the purpose of obtaining a preferential tariff in the Party.

On whom obligations may be imposed

(2) Regulations for the purposes of subsection (1) may impose such obligations on an exporter or producer of goods.

126AKDC Power to require records

Requirement to produce records

(1) An authorised officer may require a person who is subject to record keeping obligations under regulations made for the purposes of section 126AKDB to produce to the officer such of those records as the officer requires.

Note: Failing to produce a record when required to do so by an officer may be an offence: see section 243SB. However, a person does not have to produce a record if doing so would tend to incriminate the person: see section 243SC.

Disclosing records to AANZ customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in a Party, disclose any records so produced to an AANZ customs official for that Party.

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126AKDD Power to ask questions

Power to ask questions

(1) An authorised officer may require a person who is an exporter or producer of goods that are:

(a) exported to a Party; and

(b) claimed to be originating goods, in accordance with Chapter 3 of the Agreement, for the purpose of obtaining a preferential tariff in the Party;

to answer questions in order to verify the origin of the goods.

Note: Failing to answer a question when required to do so by an officer may be an offence: see section 243SA. However, a person does not have to answer a question if doing so would tend to incriminate the person: see section 243SC.

Disclosing answers to AANZ customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in a Party, disclose any answers to such questions to an AANZ customs official for that Party.

126AKDE Approved exporters and Declarations of Origin

(1) If:

(a) goods are exported to a Party; and

(b) the goods are claimed to be originating goods, in accordance with Chapter 3 of the Agreement, for the purpose of obtaining a preferential tariff in the Party; and

(c) the Party has not implemented paragraph 1(c) of Rule 1 of Annex 3A to Chapter 3 of the Agreement;

the exporter of the goods must not complete a Declaration of Origin for the goods unless the exporter is, under the regulations, an approved exporter.

(2) The regulations may make provision for and in relation to the approval of entities as approved exporters.

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(3) Without limiting subsection (2), the regulations may make provision for and in relation to the following:

(a) the making of applications to the Comptroller-General of Customs by entities for approval as approved exporters and the withdrawal of those applications;

(b) the eligibility criteria that an entity must meet in order for the Comptroller-General to approve the entity as an approved exporter;

(c) the matters that the Comptroller-General must consider in deciding whether to approve an entity as an approved exporter;

(d) the making of decisions by the Comptroller-General in relation to the applications;

(e) the conditions that an approval of an entity as an approved exporter is subject to;

(f) the variation, suspension or termination of an approval of an entity as an approved exporter;

(g) the giving of notice of decisions made by the Comptroller-General;

(h) the review of decisions made by the Comptroller-General.

126AKDF ASEAN Register of Approved Exporters

(1) The Comptroller-General of Customs may maintain a register, to be known as the ASEAN Register of Approved Exporters, containing information (including personal information within the meaning of the *Privacy Act 1988*) that relates to the following:

(a) each entity approved as an approved exporter under regulations made for the purposes of section 126AKDE;

(b) the conditions that an approval of an entity as an approved exporter is subject to;

(c) the variation, suspension or termination of an approval of an entity as an approved exporter.

(2) The Comptroller-General must make any register publicly available.

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(3) The register is not a legislative instrument.

126AKDG Inclusion of information in approved exporter database

The Comptroller-General of Customs may:

(a) include information (including personal information within the meaning of the *Privacy Act 1988*) in the approved exporter database; or

(b) disclose information (including personal information within the meaning of the *Privacy Act 1988*) to a person for the purpose of the information being included in the approved exporter database;

if the information covered by paragraph (a) or (b) relates to the following:

(c) an entity approved as an approved exporter under regulations made for the purposes of section 126AKDE;

(d) the conditions that an approval of an entity as an approved exporter is subject to;

(e) the variation, suspension or termination of an approval of an entity as an approved exporter.

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Division 4DA—Exportation of goods to Peru

126AJE Definitions

In this Division:

Agreement means the Peru-Australia Free Trade Agreement, done at Canberra on 12 February 2018, as amended from time to time.

Note: The Agreement could in 2019 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).

Peruvian customs official means a person representing the customs administration of Peru.

producer means a person who engages in the production of goods.

production has the meaning given by Article 3.1 of Chapter 3 of the Agreement.

territory of Peru means territory within the meaning, so far as it relates to Peru, of Article 1.3 of Chapter 1 of the Agreement.

126AJF Record keeping obligations

Regulations may prescribe record keeping obligations

(1) The regulations may prescribe record keeping obligations that apply in relation to goods that:
  (a) are exported to the territory of Peru; and
  (b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in the territory of Peru.

On whom obligations may be imposed

(2) Regulations for the purposes of subsection (1) may impose such obligations on an exporter or producer of goods.

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126AJG Power to require records

Requirement to produce records

(1) An authorised officer may require a person who is subject to record keeping obligations under regulations made for the purposes of section 126AJF to produce to the officer such of those records as the officer requires.

Note: Failing to produce a record when required to do so by an officer may be an offence: see section 243SB. However, a person does not have to produce a record if doing so would tend to incriminate the person: see section 243SC.

Disclosing records to Peruvian customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in the territory of Peru, disclose any records so produced to a Peruvian customs official.

126AJH Power to ask questions

Power to ask questions

(1) An authorised officer may require a person who is an exporter or producer of goods that:

(a) are exported to the territory of Peru; and

(b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in the territory of Peru;

to answer questions in order to verify the origin of the goods.

Note: Failing to answer a question when required to do so by an officer may be an offence: see section 243SA. However, a person does not have to answer a question if doing so would tend to incriminate the person: see section 243SC.

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Disclosing answers to Peruvian customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in the territory of Peru, disclose any answers to such questions to a Peruvian customs official.

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Division 4E—Exportation of goods to Chile

126AKA Definitions

In this Division:

Chilean customs official means a person representing the customs administration of Chile.

producer means a person who grows, farms, raises, breeds, mines, harvests, fishes, traps, hunts, captures, gathers, collects, extracts, manufactures, processes or assembles goods.

126AKB Record keeping obligations

Regulations may prescribe record keeping obligations

(1) The regulations may prescribe record keeping obligations that apply in relation to goods that:
  (a) are exported to Chile; and
  (b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in Chile.

On whom obligations may be imposed

(2) Regulations for the purposes of subsection (1) may impose such obligations on a producer or exporter of goods.

126AKC Power to require records

Requirement to produce records

(1) An authorised officer may require a person who is subject to record keeping obligations under regulations made for the purposes of section 126AKB to produce to the officer such of those records as the officer requires.

Note: Failing to produce a record when required to do so by an officer may be an offence: see section 243SB. However, a person does not have to

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produce a record if doing so would tend to incriminate the person: see section 243SC.

Disclosing records to Chilean customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in Chile, disclose any records so produced to a Chilean customs official.

126AKD Power to ask questions

Power to ask questions

(1) An authorised officer may require a person who is an exporter or producer of goods that:

(a) are exported to Chile; and

(b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in Chile;

to answer questions in order to verify the origin of the goods.

Note: Failing to answer a question when required to do so by an officer may be an offence: see section 243SA. However, a person does not have to answer a question if doing so would tend to incriminate the person: see section 243SC.

Disclosing answers to Chilean customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in Chile, disclose any answers to such questions to a Chilean customs official.

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Division 4EA—Exportation of goods to Parties to the Pacific Agreement on Closer Economic Relations Plus

126AKE Definitions

In this Division:

Agreement means the Pacific Agreement on Closer Economic Relations Plus, done at Nuku'alofa, Tonga on 14 June 2017, as amended and in force for Australia from time to time.

Note: The Agreement could in 2018 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).

Customs Administration has the meaning given by Article 2 of Chapter 1 of the Agreement.

Pacific Islands customs official, for a Party, means a person representing the Customs Administration of that Party.

Party has the meaning given by Article 2 of Chapter 1 of the Agreement.

producer means a person who engages in the production of goods.

production has the meaning given by Article 1 of Chapter 3 of the Agreement.

126AKF Record keeping obligations

Regulations may prescribe record keeping obligations

(1) The regulations may prescribe record keeping obligations that apply in relation to goods that:
  (a) are exported to a Party; and

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(b) are claimed to be originating goods, in accordance with Chapter 3 of the Agreement, for the purpose of obtaining a preferential tariff in the Party.

On whom obligations may be imposed

(2) Regulations for the purposes of subsection (1) may impose such obligations on an exporter or producer of goods.

126AKG Power to require records

Requirement to produce records

(1) An authorised officer may require a person who is subject to record keeping obligations under regulations made for the purposes of section 126AKF to produce to the officer such of those records as the officer requires.

Note: Failing to produce a record when required to do so by an officer may be an offence: see section 243SB. However, a person does not have to produce a record if doing so would tend to incriminate the person: see section 243SC.

Disclosing records to Pacific Islands customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in a Party, disclose any records so produced to a Pacific Islands customs official for that Party.

126AKH Power to ask questions

Power to ask questions

(1) An authorised officer may require a person who is an exporter or producer of goods that:
(a) are exported to a Party; and
(b) are claimed to be originating goods, in accordance with Chapter 3 of the Agreement, for the purpose of obtaining a preferential tariff in the Party;

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to answer questions in order to verify the origin of the goods.

Note: Failing to answer a question when required to do so by an officer may be an offence: see section 243SA. However, a person does not have to answer a question if doing so would tend to incriminate the person: see section 243SC.

Disclosing answers to Pacific Islands customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in a Party, disclose any answers to such questions to a Pacific Islands customs official for that Party.

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Division 4EB—Exportation of goods to Parties to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership

126AKI Definitions

In this Division:

Agreement means the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, done at Santiago, Chile on 8 March 2018, as amended and in force for Australia from time to time.

Note 1: The Agreement could in 2018 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).

Note 2: Under Article 1 of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (the ***Santiago Agreement***), most of the provisions of the Trans-Pacific Partnership Agreement (the ***Auckland Agreement***), done at Auckland on 4 February 2016, are incorporated, by reference, into and made part of the Santiago Agreement. This means, for example, that Chapters 1 and 3 of the Auckland Agreement are, because of that Article, Chapters 1 and 3 of the Santiago Agreement.

customs administration, of a Party, has the meaning given by Annex 1-A to Chapter 1 of the Agreement.

Party has the meaning given by Article 1.3 of Chapter 1 of the Agreement.

producer means a person who engages in the production of goods.

production has the meaning given by Article 3.1 of Chapter 3 of the Agreement.

territory, for a Party, has the meaning given by Article 1.3 of Chapter 1 of the Agreement.

Trans-Pacific Partnership customs official, for a Party, means a person representing the customs administration of that Party.

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126AKJ Record keeping obligations

Regulations may prescribe record keeping obligations

(1) The regulations may prescribe record keeping obligations that apply in relation to goods that:

(a) are exported to the territory of a Party; and

(b) are claimed to be originating goods, in accordance with Chapter 3 of the Agreement, for the purpose of obtaining a preferential tariff in the Party.

On whom obligations may be imposed

(2) Regulations for the purposes of subsection (1) may impose such obligations on an exporter or producer of goods.

126AKK Power to require records

Requirement to produce records

(1) An authorised officer may require a person who is subject to record keeping obligations under regulations made for the purposes of section 126AKJ to produce to the officer such of those records as the officer requires.

Note: Failing to produce a record when required to do so by an officer may be an offence: see section 243SB. However, a person does not have to produce a record if doing so would tend to incriminate the person: see section 243SC.

Disclosing records to Trans-Pacific Partnership customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in a Party, disclose any records so produced to a Trans-Pacific Partnership customs official for that Party.

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126AKL Power to ask questions

Power to ask questions

(1) An authorised officer may require a person who is an exporter or producer of goods that:

(a) are exported to the territory of a Party; and

(b) are claimed to be originating goods, in accordance with Chapter 3 of the Agreement, for the purpose of obtaining a preferential tariff in the Party;

to answer questions in order to verify the origin of the goods.

Note: Failing to answer a question when required to do so by an officer may be an offence: see section 243SA. However, a person does not have to answer a question if doing so would tend to incriminate the person: see section 243SC.

Disclosing answers to Trans-Pacific Partnership customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in a Party, disclose any answers to such questions to a Trans-Pacific Partnership customs official for that Party.

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Division 4F—Exportation of goods to Malaysia

126ALA Definitions

In this Division:

Malaysian customs official means a person representing the customs administration of Malaysia.

producer means a person who grows, plants, mines, harvests, farms, raises, breeds, extracts, gathers, collects, captures, fishes, traps, hunts, manufactures, processes or assembles goods.

126ALB Record keeping obligations

Regulations may prescribe record keeping obligations

(1) The regulations may prescribe record keeping obligations that apply in relation to goods that:
  (a) are exported to Malaysia; and
  (b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in Malaysia.

On whom obligations may be imposed

(2) Regulations for the purposes of subsection (1) may impose such obligations on an exporter or producer of goods.

126ALC Power to require records

Requirement to produce records

(1) An authorised officer may require a person who is subject to record keeping obligations under regulations made for the purposes of section 126ALB to produce to the officer such of those records as the officer requires.

Note: Failing to produce a record when required to do so by an officer may be an offence: see section 243SB. However, a person does not have to

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produce a record if doing so would tend to incriminate the person: see section 243SC.

Disclosing records to Malaysian customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in Malaysia, disclose any records so produced to a Malaysian customs official.

126ALD Power to ask questions

Power to ask questions

(1) An authorised officer may require a person who is an exporter or producer of goods that:

(a) are exported to Malaysia; and

(b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in Malaysia;

to answer questions in order to verify the origin of the goods.

Note: Failing to answer a question when required to do so by an officer may be an offence: see section 243SA. However, a person does not have to answer a question if doing so would tend to incriminate the person: see section 243SC.

Disclosing answers to Malaysian customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in Malaysia, disclose any answers to such questions to a Malaysian customs official.

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Division 4FA—Exportation of goods to Indonesia

126ALE Definitions

In this Division:

Agreement means the Indonesia-Australia Comprehensive Economic Partnership Agreement, done at Jakarta on 4 March 2019, as amended from time to time.

Note: The Agreement could in 2019 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).

Indonesian customs official means a person representing the customs administration of Indonesia.

territory of Indonesia means territory within the meaning, so far as it relates to Indonesia, of Article 1.4 of Chapter 1 of the Agreement.

126ALF Record keeping obligations

Regulations may prescribe record keeping obligations

(1) The regulations may prescribe record keeping obligations that apply in relation to goods that:
  (a) are exported to the territory of Indonesia; and
  (b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in the territory of Indonesia.

On whom obligations may be imposed

(2) Regulations for the purposes of subsection (1) may impose such obligations on an exporter of goods.

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126ALG Power to require records

Requirement to produce records

(1) An authorised officer may require a person who is subject to record keeping obligations under regulations made for the purposes of section 126ALF to produce to the officer such of those records as the officer requires.

Note: Failing to produce a record when required to do so by an officer may be an offence: see section 243SB. However, a person does not have to produce a record if doing so would tend to incriminate the person: see section 243SC.

Disclosing records to Indonesian customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in the territory of Indonesia, disclose any records so produced to an Indonesian customs official.

126ALH Power to ask questions

Power to ask questions

(1) An authorised officer may require a person who is an exporter of goods that:

(a) are exported to the territory of Indonesia; and

(b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in the territory of Indonesia;

to answer questions in order to verify the origin of the goods.

Note: Failing to answer a question when required to do so by an officer may be an offence: see section 243SA. However, a person does not have to answer a question if doing so would tend to incriminate the person: see section 243SC.

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Disclosing answers to Indonesian customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in the territory of Indonesia, disclose any answers to such questions to an Indonesian customs official.

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Division 4G—Exportation of goods to Korea

126AMA Definitions

In this Division:

Korea means the Republic of Korea.

Korean customs official means a person representing the customs administration of Korea.

producer means a person who grows, mines, harvests, fishes, breeds, raises, traps, hunts, manufactures, processes, assembles or disassembles goods.

126AMB Record keeping obligations

Regulations may prescribe record keeping obligations

(1) The regulations may prescribe record keeping obligations that apply in relation to goods that:
  (a) are exported to Korea; and
  (b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in Korea.

On whom obligations may be imposed

(2) Regulations for the purposes of subsection (1) may impose such obligations on an exporter or producer of goods.

126AMC Power to require records

Requirement to produce records

(1) An authorised officer may require a person who is subject to record keeping obligations under regulations made for the purposes of section 126AMB to produce to the officer such of those records as the officer requires.

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Note: Failing to produce a record when required to do so by an officer may be an offence: see section 243SB. However, a person does not have to produce a record if doing so would tend to incriminate the person: see section 243SC.

Disclosing records to Korean customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in Korea, disclose any records so produced to a Korean customs official.

126AMD Power to ask questions

Power to ask questions

(1) An authorised officer may require a person who is an exporter or producer of goods that:

(a) are exported to Korea; and

(b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in Korea;

to answer questions in order to verify the origin of the goods.

Note: Failing to answer a question when required to do so by an officer may be an offence: see section 243SA. However, a person does not have to answer a question if doing so would tend to incriminate the person: see section 243SC.

Disclosing answers to Korean customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in Korea, disclose any answers to such questions to a Korean customs official.

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Division 4GA—Exportation of goods to India

126AME Definitions

In this Division:

Agreement means the India-Australia Economic Cooperation and Trade Agreement, done on 2 April 2022, as amended from time to time.

Note: The Agreement could in 2022 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).

customs administration for India means customs administration within the meaning, so far as it relates to India, of Article 4.1 of Chapter 4 of the Agreement.

Indian customs official means a person representing the customs administration for India.

producer means a person who engages in the production of goods.

production has the meaning given by Article 4.1 of Chapter 4 of the Agreement.

territory of India means territory within the meaning, so far as it relates to India, of Article 1.3 of Chapter 1 of the Agreement.

126AMF Record keeping obligations

Regulations may prescribe record keeping obligations

(1) The regulations may prescribe record keeping obligations that apply in relation to goods that:
  (a) are exported to the territory of India; and
  (b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in the territory of India.

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On whom obligations may be imposed

(2) Regulations for the purposes of subsection (1) may impose such obligations on an exporter or producer of goods.

126AMG Power to require records

Requirement to produce records

(1) An authorised officer may require a person who is subject to record keeping obligations under regulations made for the purposes of section 126AMF to produce to the officer such of those records as the officer requires.

Note: Failing to produce a record when required to do so by an officer may be an offence: see section 243SB. However, a person does not have to produce a record if doing so would tend to incriminate the person: see section 243SC.

Disclosing records to Indian customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in the territory of India, disclose any records so produced to an Indian customs official.

126AMH Power to ask questions

Power to ask questions

(1) An authorised officer may require a person who is an exporter or producer of goods that:

(a) are exported to the territory of India; and

(b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in the territory of India;

to answer questions in order to verify the origin of the goods.

Note: Failing to answer a question when required to do so by an officer may be an offence: see section 243SA. However, a person does not have to answer a question if doing so would tend to incriminate the person: see section 243SC.

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Disclosing answers to Indian customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in the territory of India, disclose any answers to such questions to an Indian customs official.

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Division 4H—Exportation of goods to Japan

126ANA Definitions

In this Division:

Japanese customs official means a person representing the customs administration of Japan.

producer means a person who manufactures, assembles, processes, raises, grows, breeds, mines, extracts, harvests, fishes, traps, gathers, collects, hunts or captures goods.

126ANB Record keeping obligations

Regulations may prescribe record keeping obligations

(1) The regulations may prescribe record keeping obligations that apply in relation to goods that:
  (a) are exported to Japan; and
  (b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in Japan.

On whom obligations may be imposed

(2) Regulations for the purposes of subsection (1) may impose such obligations on an exporter or producer of goods.

126ANC Power to require records

Requirement to produce records

(1) An authorised officer may require a person who is subject to record keeping obligations under regulations made for the purposes of section 126ANB to produce to the officer such of those records as the officer requires.

Note: Failing to produce a record when required to do so by an officer may be an offence: see section 243SB. However, a person does not have to

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produce a record if doing so would tend to incriminate the person: see section 243SC.

Disclosing records to Japanese customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in Japan, disclose any records so produced to a Japanese customs official.

126AND Power to ask questions

Power to ask questions

(1) An authorised officer may require a person who is an exporter or producer of goods that:

(a) are exported to Japan; and

(b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in Japan;

to answer questions in order to verify the origin of the goods.

Note: Failing to answer a question when required to do so by an officer may be an offence: see section 243SA. However, a person does not have to answer a question if doing so would tend to incriminate the person: see section 243SC.

Disclosing answers to Japanese customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in Japan, disclose any answers to such questions to a Japanese customs official.

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Division 4J—Exportation of goods to China

126AOA Definitions

In this Division:

Agreement means the China-Australia Free Trade Agreement, done at Canberra on 17 June 2015, as amended from time to time.

Note: The Agreement could in 2015 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).

Chinese customs official means a person representing the customs administration of the territory of China.

producer means a person who grows, raises, mines, harvests, fishes, farms, traps, hunts, captures, gathers, collects, breeds, extracts, manufactures, processes or assembles goods.

territory of China means territory within the meaning, so far as it relates to China, of Article 1.3 of the Agreement, and does not include the customs territory of the following members of the World Trade Organization established by the World Trade Organization Agreement:

(a) Hong Kong, China;
(b) Macao, China;
(c) Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

World Trade Organization Agreement means the Marrakesh Agreement establishing the World Trade Organization, done at Marrakesh on 15 April 1994.

Note: The Agreement is in Australian Treaty Series 1995 No. 8 ([1995] ATS 8) and could in 2015 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).

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126AOB Record keeping obligations

Regulations may prescribe record keeping obligations

(1) The regulations may prescribe record keeping obligations that apply in relation to goods that:
  (a) are exported to the territory of China; and
  (b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in the territory of China.

On whom obligations may be imposed

(2) Regulations for the purposes of subsection (1) may impose such obligations on an exporter or producer of goods.

126AOC Power to require records

Requirement to produce records

(1) An authorised officer may require a person who is subject to record keeping obligations under regulations made for the purposes of section 126AOB to produce to the officer such of those records as the officer requires.

Note: Failing to produce a record when required to do so by an officer may be an offence: see section 243SB. However, a person does not have to produce a record if doing so would tend to incriminate the person: see section 243SC.

Disclosing records to Chinese customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in the territory of China, disclose any records so produced to a Chinese customs official.

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126AOD Power to ask questions

Power to ask questions

(1) An authorised officer may require a person who is an exporter or producer of goods that:

(a) are exported to the territory of China; and

(b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in the territory of China;

to answer questions in order to verify the origin of the goods.

Note: Failing to answer a question when required to do so by an officer may be an offence: see section 243SA. However, a person does not have to answer a question if doing so would tend to incriminate the person: see section 243SC.

Disclosing answers to Chinese customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in the territory of China, disclose any answers to such questions to a Chinese customs official.

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Division 4K—Exportation of goods to Hong Kong, China

126APA Definitions

In this Division:

Agreement means the Free Trade Agreement between Australia and Hong Kong, China, done at Sydney on 26 March 2019, as amended from time to time.

Note: The Agreement could in 2019 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).

Area of Hong Kong, China means Area within the meaning, so far as it relates to Hong Kong, China, of Article 1.3 of Chapter 1 of the Agreement, as affected by the following letters related to the geographical application of the Agreement for Hong Kong, China:

(a) a letter to the Minister for Trade, Tourism, and Investment from the Secretary for Commerce and Economic Development, Hong Kong Special Administrative Region, The People's Republic of China dated 26 March 2019;

(b) a letter to that Secretary from that Minister dated 26 March 2019.

Note: The letters could in 2019 be viewed on the website of the Department of Foreign Affairs and Trade.

Hong Kong, China customs official means a person representing the customs administration of Hong Kong, China.

producer means a person who engages in the production of goods.

production has the meaning given by Article 3.1 of Chapter 3 of the Agreement.

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126APB Record keeping obligations

Regulations may prescribe record keeping obligations

(1) The regulations may prescribe record keeping obligations that apply in relation to goods that:
  (a) are exported to the Area of Hong Kong, China; and
  (b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in the Area of Hong Kong, China.

On whom obligations may be imposed

(2) Regulations for the purposes of subsection (1) may impose such obligations on an exporter or producer of goods.

126APC Power to require records

Requirement to produce records

(1) An authorised officer may require a person who is subject to record keeping obligations under regulations made for the purposes of section 126APB to produce to the officer such of those records as the officer requires.

Note: Failing to produce a record when required to do so by an officer may be an offence: see section 243SB. However, a person does not have to produce a record if doing so would tend to incriminate the person: see section 243SC.

Disclosing records to Hong Kong, China customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in the Area of Hong Kong, China, disclose any records so produced to a Hong Kong, China customs official.

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126APD Power to ask questions

Power to ask questions

(1) An authorised officer may require a person who is an exporter or producer of goods that:

(a) are exported to the Area of Hong Kong, China; and

(b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in the Area of Hong Kong, China;

to answer questions in order to verify the origin of the goods.

Note: Failing to answer a question when required to do so by an officer may be an offence: see section 243SA. However, a person does not have to answer a question if doing so would tend to incriminate the person: see section 243SC.

Disclosing answers to Hong Kong, China customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in the Area of Hong Kong, China, disclose any answers to such questions to a Hong Kong, China customs official.

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Division 4L—Exportation of goods to Parties to the Regional Comprehensive Economic Partnership Agreement

126AQA Definitions

In this Division:

Agreement means the Regional Comprehensive Economic Partnership Agreement, done on 15 November 2020, as amended and in force for Australia from time to time.

Note: The Agreement could in 2021 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).

approved exporter database means the approved exporter database referred to in paragraph 6 of Article 3.21 of Chapter 3 of the Agreement.

customs authority has the meaning given by Article 4.1 of Chapter 4 of the Agreement.

Declaration of Origin means a Declaration of Origin referred to in paragraph 1 of Article 3.16 of Chapter 3 of the Agreement.

Party has the meaning given by Article 1.2 of Chapter 1 of the Agreement.

producer means a person who engages in the production of goods.

production has the meaning given by Article 3.1 of Chapter 3 of the Agreement.

RCEP customs official, for a Party, means a person representing the customs authority of that Party.

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126AQB Record keeping obligations

Regulations may prescribe record keeping obligations

(1) The regulations may prescribe record keeping obligations that apply in relation to goods that:
  (a) are exported to a Party; and
  (b) are claimed to be originating goods, in accordance with Chapter 3 of the Agreement, for the purpose of obtaining a preferential tariff in the Party.

On whom obligations may be imposed

(2) Regulations for the purposes of subsection (1) may impose such obligations on an exporter or producer of goods.

126AQC Power to require records

Requirement to produce records

(1) An authorised officer may require a person who is subject to record keeping obligations under regulations made for the purposes of section 126AQB to produce to the officer such of those records as the officer requires.

Note: Failing to produce a record when required to do so by an officer may be an offence: see section 243SB. However, a person does not have to produce a record if doing so would tend to incriminate the person: see section 243SC.

Disclosing records to RCEP customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in a Party, disclose any records so produced to a RCEP customs official for that Party.

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126AQD Power to ask questions

Power to ask questions

(1) An authorised officer may require a person who is an exporter or producer of goods that:

(a) are exported to a Party; and

(b) are claimed to be originating goods, in accordance with Chapter 3 of the Agreement, for the purpose of obtaining a preferential tariff in the Party;

to answer questions in order to verify the origin of the goods.

Note: Failing to answer a question when required to do so by an officer may be an offence: see section 243SA. However, a person does not have to answer a question if doing so would tend to incriminate the person: see section 243SC.

Disclosing answers to RCEP customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in a Party, disclose any answers to such questions to a RCEP customs official for that Party.

126AQE Approved exporters and Declarations of Origin

(1) If:

(a) goods are exported to a Party; and

(b) the goods are claimed to be originating goods, in accordance with Chapter 3 of the Agreement, for the purpose of obtaining a preferential tariff in the Party; and

(c) the Party has not implemented paragraph 1(c) of Article 3.16 of Chapter 3 of the Agreement;

the exporter of the goods must not complete a Declaration of Origin for the goods unless the exporter is, under the regulations, an approved exporter.

(2) The regulations may make provision for and in relation to the approval of entities as approved exporters.

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(3) Without limiting subsection (2), the regulations may make provision for and in relation to the following:

(a) the making of applications to the Comptroller-General of Customs by entities for approval as approved exporters and the withdrawal of those applications;

(b) the eligibility criteria that an entity must meet in order for the Comptroller-General to approve the entity as an approved exporter;

(c) the matters that the Comptroller-General must consider in deciding whether to approve an entity as an approved exporter;

(d) the making of decisions by the Comptroller-General in relation to the applications;

(e) the conditions that an approval of an entity as an approved exporter is subject to;

(f) the variation, suspension or termination of an approval of an entity as an approved exporter;

(g) the giving of notice of decisions made by the Comptroller-General;

(h) the review of decisions made by the Comptroller-General.

126AQF RCEP Register of Approved Exporters

(1) The Comptroller-General of Customs may maintain a register, to be known as the RCEP Register of Approved Exporters, containing information (including personal information within the meaning of the *Privacy Act 1988*) that relates to the following:

(a) each entity approved as an approved exporter under regulations made for the purposes of section 126AQE;

(b) the conditions that an approval of an entity as an approved exporter is subject to;

(c) the variation, suspension or termination of an approval of an entity as an approved exporter.

(2) The Comptroller-General must make any register publicly available.

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(3) The register is not a legislative instrument.

126AQG Inclusion of information in approved exporter database

The Comptroller-General of Customs may:

(a) include information (including personal information within the meaning of the *Privacy Act 1988*) in the approved exporter database; or

(b) disclose information (including personal information within the meaning of the *Privacy Act 1988*) to a person for the purpose of the information being included in the approved exporter database;

if the information covered by paragraph (a) or (b) relates to the following:

(c) an entity approved as an approved exporter under regulations made for the purposes of section 126AQE;

(d) the conditions that an approval of an entity as an approved exporter is subject to;

(e) the variation, suspension or termination of an approval of an entity as an approved exporter.

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Division 4M—Exportation of goods to the United Kingdom

126ARA Definitions

In this Division:

Agreement means the Free Trade Agreement between Australia and the United Kingdom of Great Britain and Northern Ireland, done on 16 and 17 December 2021, as amended from time to time.

Note: The Agreement could in 2022 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).

customs authority for the United Kingdom means customs authority within the meaning, so far as it relates to the United Kingdom, of Article 1.4 of Chapter 1 of the Agreement.

producer means a person who engages in the production of goods.

production has the meaning given by Article 4.1 of Chapter 4 of the Agreement.

territory of the United Kingdom means territory within the meaning, so far as it relates to the United Kingdom, of Article 1.4 of Chapter 1 of the Agreement.

United Kingdom customs official means a person representing the customs authority for the United Kingdom.

126ARB Record keeping obligations

Regulations may prescribe record keeping obligations

(1) The regulations may prescribe record keeping obligations that apply in relation to goods that:
  (a) are exported to the territory of the United Kingdom; and
  (b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in the territory of the United Kingdom.

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On whom obligations may be imposed

(2) Regulations for the purposes of subsection (1) may impose such obligations on an exporter or producer of goods.

126ARC Power to require records

Requirement to produce records

(1) An authorised officer may require a person who is subject to record keeping obligations under regulations made for the purposes of section 126ARB to produce to the officer such of those records as the officer requires.

Note: Failing to produce a record when required to do so by an officer may be an offence: see section 243SB. However, a person does not have to produce a record if doing so would tend to incriminate the person: see section 243SC.

Disclosing records to United Kingdom customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in the territory of the United Kingdom, disclose any records so produced to a United Kingdom customs official.

126ARD Power to ask questions

Power to ask questions

(1) An authorised officer may require a person who is an exporter or producer of goods that:

(a) are exported to the territory of the United Kingdom; and

(b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in the territory of the United Kingdom;

to answer questions in order to verify the origin of the goods.

Note: Failing to answer a question when required to do so by an officer may be an offence: see section 243SA. However, a person does not have to answer a question if doing so would tend to incriminate the person: see section 243SC.

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Disclosing answers to United Kingdom customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in the territory of the United Kingdom, disclose any answers to such questions to a United Kingdom customs official.

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Division 4N—Exportation of goods to the United Arab Emirates

126ASA Definitions

In this Division:

Agreement means the Comprehensive Economic Partnership Agreement between Australia and the United Arab Emirates, done at Canberra on 6 November 2024, as amended from time to time.

Note: The Agreement could in 2025 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).

producer means a person who engages in the production of goods.

production has the meaning given by Article 3.1 of Chapter 3 of the Agreement.

territory of the United Arab Emirates means territory within the meaning, so far as it relates to the United Arab Emirates, of Article 1.2 of Chapter 1 of the Agreement.

UAE customs administration means customs administration within the meaning, so far as it relates to the United Arab Emirates, of Article 4.1 of Chapter 4 of the Agreement.

UAE customs official means a person representing the UAE customs administration.

126ASB Record keeping obligations

Regulations may prescribe record keeping obligations

(1) The regulations may prescribe record keeping obligations that apply in relation to goods that:

(a) are exported to the territory of the United Arab Emirates; and

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(b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in the territory of the United Arab Emirates.

On whom obligations may be imposed

(2) Regulations for the purposes of subsection (1) may impose such obligations on an exporter or producer of goods.

126ASC Power to require records

Requirement to produce records

(1) An authorised officer may require a person who is subject to record keeping obligations under regulations made for the purposes of section 126ASB to produce to the officer such of those records as the officer requires.

Note: Failing to produce a record when required to do so by an officer may be an offence: see section 243SB. However, a person does not have to produce a record if doing so would tend to incriminate the person: see section 243SC.

Disclosing records to UAE customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in the territory of the United Arab Emirates, disclose any records so produced to a UAE customs official.

126ASD Power to ask questions

Power to ask questions

(1) An authorised officer may require a person who is an exporter or producer of goods that:

(a) are exported to the territory of the United Arab Emirates; and

(b) are claimed to be Australian originating goods for the purpose of obtaining a preferential tariff in the territory of the United Arab Emirates;

to answer questions in order to verify the origin of the goods.

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Note: Failing to answer a question when required to do so by an officer may be an offence: see section 243SA. However, a person does not have to answer a question if doing so would tend to incriminate the person: see section 243SC.

Disclosing answers to UAE customs official

(2) An authorised officer may, for the purpose of verifying a claim for a preferential tariff in the territory of the United Arab Emirates, disclose any answers to such questions to a UAE customs official.

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Division 5—Miscellaneous

126A Export of installations

(1) Where an installation ceases to be part of Australia, the installation and any goods on the installation at the time when it ceases to be part of Australia shall, for the purposes of the Customs Acts, be taken to have been exported from Australia.

(2) Where:

(a) a resources installation is taken from a place in Australia into Australian waters for the purpose of becoming attached to the Australian seabed; or

(b) a sea installation is taken from a place in Australia into an adjacent area or into a coastal area for the purpose of being installed in that area; or

(c) an offshore electricity installation is taken from a place in Australia into the Commonwealth offshore area for the purpose of being installed in that area;

the installation and any goods on the installation shall not be taken, for the purposes of the Customs Acts, to have been exported from Australia.

126B Export of goods from installations

For the purposes of the Customs Acts, where goods are taken from an installation that is deemed to be part of Australia under section 5C for the purpose of being taken to a place outside Australia, whether directly or indirectly, the goods shall be deemed to have been exported from Australia at the time when they are so taken from the installation.

126C Size of exporting vessel

(1) Goods subject to customs control must not be exported in a ship of less than 50 tons gross registered.

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Penalty: 30 penalty units.

(2) Subsection (1) is an offence of strict liability.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(3) Subsection (1) does not apply if the Comptroller-General of Customs has given written permission for the export of the goods in that way.

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