

Customs

No. 54 of 1967

An Act to amend the *Customs Act* 1901–1966 in relation to Offences.

[Assented to 30 May 1967]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

- 1.—(1) This Act may be cited as the *Customs Act* 1967. Short title and citation.
- (2) The *Customs Act* 1901–1966* is in this Act referred to as the Principal Act.
- (3) The Principal Act, as amended by this Act, may be cited as the *Customs Act* 1901–1967.
2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.
3. Section 4 of the Principal Act is amended by inserting in sub-section (1.), after the definition of “Master”, the following definition:— Interpretation.

“ ‘Narcotic drug’ means goods consisting of a substance or mixture that is a drug as defined by sub-section (1.) of section four of the *Narcotic Drugs Act* 1967 or a narcotic preparation as so defined, and includes goods consisting of, or of a mixture containing, bufotenine, dimethyltryptamine, lysergide, mescaline, psilocybin or psilocin.”
4. Section 50 of the Principal Act is amended— Prohibition of the importation of goods.
 - (a) by inserting in sub-section (4.), after the word “requirement” (last occurring), the following words:—

“and, if he fails to do so, he is guilty of an offence punishable upon conviction—

 - (a) if the licence or permission relates to goods that are not narcotic drugs—by a fine not exceeding One thousand dollars; or
 - (b) if the licence or permission relates to goods that are narcotic drugs—as provided by section two hundred and thirty-five of this Act”; and
 - (b) by omitting the words—

“Penalty: One thousand dollars.”

* Act No. 6, 1901, as amended by No. 21, 1906; Nos. 9 and 36, 1910; No. 19, 1914; No. 10, 1916; No. 19, 1922; No. 12, 1923; No. 22, 1925; No. 6, 1930; Nos. 7 and 45, 1934; No. 7, 1935; No. 85, 1936; No. 54, 1947; No. 45, 1949; Nos. 56 and 80, 1950; No. 56, 1951; No. 108, 1952; No. 47, 1953; No. 66, 1954; No. 37, 1957; No. 54, 1959; Nos. 42 and 111, 1960; No. 48, 1963; Nos. 29, 82 and 133, 1965; and No. 28, 1966.

Assemblies
for unlawful
purposes.

5. Section 231 of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the words “ and shall be liable, upon summary conviction, to imprisonment for any period not exceeding two years ” and inserting in their stead the following words:—

“ punishable upon conviction—

(d) if the offence is committed in relation to goods that are not narcotic drugs—by imprisonment for a period not exceeding two years; or

(e) if the offence is committed in relation to goods that are narcotic drugs—as provided by section two hundred and thirty-five of this Act ”;

- (b) by omitting from sub-section (2.) the words “ to which the Governor-General by proclamation declares that it shall apply ” and inserting in their stead the words “ that are narcotic drugs ”; and

- (c) by adding at the end thereof the following sub-section:—

“ (3.) An offence against this section to which paragraph (d) of sub-section (1.) of this section applies is punishable upon summary conviction.”.

Smuggling
and unlawful
importation
and
exportation.

6. Section 233 of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the words—

“ Penalty: One thousand dollars.”; and

- (b) by inserting after sub-section (1.) the following sub-section:—

“ (1A.) A person who contravenes the last preceding sub-section is guilty of an offence punishable upon conviction—

(a) if the offence is committed in relation to goods that are not narcotic drugs—by a fine not exceeding One thousand dollars; or

(b) if the offence is committed in relation to goods that are narcotic drugs—as provided by section two hundred and thirty-five of this Act.”.

Master no
to use or
allow use
of ship for
smuggling,
&c.

7. Section 233A of the Principal Act is amended—

- (a) by omitting the words—

“ Penalty: Two hundred dollars.”; and

- (b) by adding at the end thereof the following sub-section:—

“ (2.) A person who contravenes the last preceding sub-section is guilty of an offence punishable upon conviction—

(a) if the offence is committed in relation to goods that are not narcotic drugs—by a fine not exceeding One thousand dollars; or

(b) if the offence is committed in relation to goods that are narcotic drugs—as provided by section two hundred and thirty-five of this Act.”.

8. Section 233B of the Principal Act is amended—

- (a) by omitting from sub-section (1.) all the words from and including the words “against this Act”; and
- (b) by omitting sub-sections (2.) and (3.) and inserting in their stead the following sub-sections:—

Special provision in relation to prohibited imports.

“(1A.) On the prosecution of a person for an offence against the last preceding sub-section, being an offence to which paragraph (c) of that sub-section applies, it is not necessary for the prosecution to prove that the person knew that the goods in his possession had been imported into Australia in contravention of this Act, but it is a defence if the person proves that he did not know that the goods in his possession had been imported into Australia in contravention of this Act.

“(2.) This section applies to prohibited imports that are narcotic drugs.

“(3.) A person who is guilty of an offence against sub-section (1.) of this section is punishable upon conviction as provided by section two hundred and thirty-five of this Act.”.

9. After section 234A of the Principal Act the following section is inserted:—

“235.—(1.) Where—

- (a) a person commits an offence against sub-section (4.) of section fifty, sub-section (1.) of section two hundred and thirty-one, sub-section (1.) of section two hundred and thirty-one, section two hundred and thirty-three A or sub-section (1.) of section two hundred and thirty-three B of this Act; and
- (b) the offence is an offence that is punishable as provided by this section,

Offences in relation to narcotic drugs.

the penalty applicable to the offence is, subject to sub-section (3.) of this section, a fine not exceeding Four thousand dollars or imprisonment for a period not exceeding ten years, or both a fine not exceeding that amount and imprisonment for a period not exceeding that period.

“(2.) An offence referred to in the last preceding sub-section may be prosecuted summarily or upon indictment, but an offender is not liable to be punished more than once in respect of the same offence.

“(3.) Where proceedings for an offence referred to in sub-section (1.) of this section are brought in a court of summary jurisdiction, the court may commit the defendant for trial or, with the consent of the defendant, determine the proceedings, but, where the court of summary jurisdiction determines the proceedings, the court shall not impose a fine exceeding One thousand dollars or sentence the defendant to imprisonment for a period exceeding two years, but may impose both a fine and a period of imprisonment in respect of the offence.”.

Amendments
of the
Principal Act
in relation to
penalties.

10. The Principal Act is amended as set out in the Schedule to this Act.

Past offences.

11. The amendments made by this Act do not have effect in relation to an offence committed before the commencement of this Act.

THE SCHEDULE

Section 10.

Provisions amended	Omit—	Insert—
Section 19	Forty dollars	One hundred dollars
Section 24	Forty dollars	One hundred dollars
Section 28	One hundred dollars	Two hundred and fifty dollars
Section 33	Two hundred dollars	One thousand dollars
Section 40	One hundred dollars	Two hundred and fifty dollars
Section 58	Two hundred dollars	One thousand dollars
Section 59(1)	Two hundred dollars	Five hundred dollars
Section 59(2)	Two hundred dollars	Five hundred dollars
Section 60(1)	One hundred dollars	Two hundred and fifty dollars
Section 60(2)	One hundred dollars	Two hundred and fifty dollars
Section 60(3)	One hundred dollars	Two hundred and fifty dollars
Section 61	Forty dollars	One hundred dollars
Section 62	Forty dollars	One hundred dollars
Section 63	Forty dollars	One hundred dollars
Section 64	Two hundred dollars	Five hundred dollars
Section 65(1)	Forty dollars	One hundred dollars
Section 65(2)	Forty dollars	One hundred dollars
Section 66	Forty dollars	One hundred dollars
Section 67	Forty dollars	One hundred dollars
Section 73	Two hundred dollars	Five hundred dollars
Section 74	Two hundred dollars	Five hundred dollars
Section 75	Two hundred dollars	Five hundred dollars
Section 92	Forty dollars	One hundred dollars
Section 92A(1)	One hundred dollars	Two hundred and fifty dollars
Section 93	Forty dollars	One hundred dollars
Section 103	Two hundred dollars	Five hundred dollars
Section 113	Two hundred dollars	Five hundred dollars
Section 114A(1)	Two hundred dollars	Five hundred dollars
Section 115	Two hundred dollars	Five hundred dollars
Section 116	Forty dollars	One hundred dollars
Section 118	Two hundred dollars	Five hundred dollars
Section 120	One hundred dollars	Two hundred and fifty dollars
Section 123(1)	Two hundred dollars	Five hundred dollars
Section 123(2)	Two hundred dollars	Five hundred dollars
Section 124	One hundred dollars	Two hundred and fifty dollars
Section 125	One hundred dollars	Two hundred and fifty dollars
Section 159	Two hundred dollars	One thousand dollars
Section 176	Two hundred dollars	Five hundred dollars
Section 185	Two hundred dollars	Five hundred dollars
Section 188	One hundred dollars	Two hundred and fifty dollars
Section 191	One hundred dollars	Two hundred and fifty dollars
Section 192	Two hundred dollars	Five hundred dollars
Section 197	Forty dollars	One hundred dollars
Section 197A	Forty dollars	One hundred dollars
Section 202	Forty dollars	One hundred dollars
Section 210(2)	Forty dollars	One hundred dollars
Section 214(1)	Two hundred dollars	One thousand dollars
Section 228	Two thousand dollars	Ten thousand dollars
Section 232A	Two hundred dollars	Five hundred dollars
Section 234	Two hundred dollars	One thousand dollars
Section 234A(1)	Forty dollars	One hundred dollars
Section 238	Twenty dollars	Fifty dollars
Section 268	Forty dollars	One hundred dollars
Section 270(2)	One hundred dollars	Two hundred and fifty dollars