**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:—

**Short title and citation.**

**1.**—(1.) This Act may be cited as the *Customs Act* 1967.

(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.

**Commencement.**

**2.** This Act shall come into operation on the day on which it receives the Royal Assent.

**Interpretation.**

**3.** Section 4 of the Principal Act is amended by inserting in sub-section (1.), after the definition of “Master”, the following definition:—

“‘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.”.

**Prohibition of the importation of goods.**

**4.** Section 50 of the Principal Act is amended—

(*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”.

**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.”.

**Special provision in relation to prohibited imports.**

**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:—

“(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:—

**Offences in relation to narcotic drugs.**

“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,

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 |