

Customs (No. 2)

No. 104 of 1968

An Act relating to the Customs.

[Assented to 2 December 1968]

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 (No. 2) 1968*.

(2.) The *Customs Act 1901-1967*,* as amended by the *Customs Act 1968*,† is in this Act referred to as the Principal Act.

(3.) Section 1 of the *Customs Act 1968* is amended by omitting subsection (3.).

(4.) The Principal Act, as amended by this Act, may be cited as the *Customs Act 1901-1968*.

Commence-
ment.

2.—(1.) Sections 1, 2, 31 and 37 of this Act shall come into operation on the day on which this Act receives the Royal Assent.

(2.) Sections 29 and 30 of this Act shall be deemed to have come into operation on the eighteenth day of June, One thousand nine hundred and sixty-eight.

(3.) The remaining provisions of this Act shall come into operation on a date to be fixed by Proclamation.

Parts.

3. Section 3 of the Principal Act is amended—

(a) by omitting the words and figures—

"Part VII.—Ships' Stores and Aircraft's Stores (Sections 127-130B)."

and inserting in their stead the words and figures—

"Part VII.—Ships' Stores and Aircraft's Stores (Sections 127-130C)."; and

(b) by omitting the words and figures—

"Part XVII.—Miscellaneous (Sections 274-277)."

and inserting in their stead the words and figures—

"Part XVII.—Miscellaneous (Sections 274-278)."

* 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; No. 28, 1966; and No. 54, 1967.

† Act No. 14, 1968.

4. Section 4 of the Principal Act is amended—

Interpretation.

(a) by inserting in sub-section (1.), after the definition of "Dutiable goods", the following definition:—

"'Duty' means duty of Customs.";

(b) by inserting in sub-section (1.), after the definition of "Pilot", the following definition:—

"'Place' includes ship or aircraft."; and

(c) by omitting the definition of "Ship" from sub-section (1.) and inserting in its stead the following definition:—

"'Ship' means any vessel used in navigation, other than air navigation, and includes a barge, fighter or any other floating vessel."

5. Sections 20, 21, 23 and 24 of the Principal Act are repealed.

Repeal of sections 20, 21, 23 and 24.

6. Section 30 of the Principal Act is amended by omitting paragraph (b) and inserting in its stead the following paragraph:—

Customs control of goods.

"(b) As to all goods in respect of which a claim for drawback has been made before exportation of the goods to parts beyond the seas—from the time the claim is made until the goods are exported, the claim is withdrawn or the claim is disallowed, whichever first occurs."

7. Section 33 of the Principal Act is amended by omitting the words "except by authority and in accordance with" and inserting in their stead the words "except as authorized by".

Customs control of goods.

8. Section 35A of the Principal Act is amended—

Persons to keep dutiable goods safely, &c.

(a) by omitting from sub-section (1.) the words ", in the opinion of the Collector making the demand,";

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

"(1A.) Where—

(a) dutiable goods subject to the control of the Customs are, by authority of an entry passed under this Act or of a permission given under section forty AA of this Act, 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,

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.

"(1B.) Where—

- (a) dutiable goods subject to the control of the Customs are, by authority of a permission given under section forty AA of this Act, 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,

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."; and

- (c) by omitting from sub-section (2.) the words "the last preceding sub-section" and inserting in their stead the words "sub-section (1.), (1A.) or (1B.) of this section".

Entry of goods. 9. Section 37 of the Principal Act is amended by omitting sub-sections (1.) and (1A.) and inserting in their stead the following sub-sections:—

"(1.) Subject to this section, an entry in respect of goods shall be made by the delivery to a Collector of an entry specifying the goods and, on the delivery of the entry, the goods shall, for the purposes of this Act, be deemed to be entered.

"(1A.) Where goods consigned to a port or airport in Australia have not been discharged at that port or airport or at any other port or airport in Australia, an entry for home consumption in respect of the goods shall not, except with the approval of a Collector, be delivered to a Collector at any port or airport other than the port or airport to which the goods are consigned.

"(1B.) Where an entry for home consumption in respect of goods is delivered to a Collector at a port or airport before the arrival at the port or airport of the goods and the next succeeding sub-section does not apply in relation to the goods, the goods shall, for the purposes of this Act, be deemed to be entered for home consumption on the day on which the goods arrive at the port or airport.

"(1c.) Where-

- (a) an entry for home consumption in respect of goods which are consigned to a port or airport in Australia (in this sub-section referred to as 'the consignment port') but have not been discharged at that port or airport or at any other port or airport in

Australia has been delivered to a Collector at a port or airport (in this sub-section referred to as 'the entry port') other than the consignment port; and

(b) the port or airport at which the goods are discharged (in this sub-section referred to as 'the discharge port') is the consignment port or another port or airport other than the entry port,

the goods shall, for the purposes of this Act, be deemed to be entered for home consumption—

(c) on the day on which the goods arrived at the discharge port; or

(d) if the discharge port is not the consignment port but, before arriving at the discharge port, the goods passed through the consignment port—on the day on which the goods arrived at the consignment port."

10. After section 40 of the Principal Act the following section is inserted:—

"40AA.—(1.) A Collector may give permission in writing to a person specified in the permission to remove goods of a kind specified in the permission that are subject to the control of the Customs from a place so specified to another place so specified and, until the permission is revoked, the permission is authority for the person to remove goods of that kind that are subject to the control of the Customs accordingly.

Permission to
remove goods
subject to
Customs
control
without
entry.

"(2.) A Collector may give permission in writing to a person specified in the permission to remove goods subject to the control of the Customs that are specified in the permission from a place so specified to another place so specified, and the permission is authority for the person to remove those goods accordingly.

"(3.) Permission under sub-section (1.) or (2.) of this section may be given subject to the condition that the person to whom the permission is given complies with such requirements as are specified in the permission, being requirements that, in the opinion of the Collector, are necessary for the protection of the revenue of the Customs or for the purpose of ensuring compliance with the Customs Acts.

"(4.) If, in relation to the removal of any goods, a person to whom permission has been given under sub-section (1.) or (2.) of this section fails to comply with a requirement specified in the permission—

(a) he is guilty of an offence against this Act punishable, upon conviction, by a penalty not exceeding One thousand dollars; and

(b) if he failed to comply with the requirement before the goods were removed—the removal of the goods shall, for the purposes of paragraph (g) of section two hundred and twenty-nine of this Act, be deemed not to have been authorized by this Act.

"(5.) Where, in accordance with a permission given under sub-section (1.) or (2.) of this section, goods are removed to a place other than a warehouse, a Collector may, at any time before the goods cease to be subject to the control of the Customs, direct that the goods be moved

from that place to a warehouse specified by him and, if default is made in complying with the direction, the Collector may cause the goods to be moved to that warehouse or to any other warehouse.

"(6.) A Collector has a lien on goods which he has caused to be moved to a warehouse under the last preceding sub-section for any expenses incurred by him in connexion with their removal to the warehouse and for any warehouse rent and charges incurred in relation to the goods.

"(7.) The powers of a Collector under section seventy-two of this Act in relation to any goods are not affected by the removal of the goods to a place in accordance with a permission given under sub-section (1.) or (2.) of this section."

Passengers
baggage.

11. Section 41 of the Principal Act is repealed.

Entries.

12. Section 68 of the Principal Act is amended by omitting the words "Imported goods" and inserting in their stead the words "Subject to this Act, imported goods".

13. After section 71 of the Principal Act the following sections are Inserted:—

Permission
to deliver
prescribed
goods for
home
consumption
without entry.

"71A.—(1.) A Collector may approve the delivery for home consumption, without entry, of prescribed goods, and prescribed goods so approved may be delivered for home consumption notwithstanding that an entry of the goods for home consumption has not been made and passed under this Act.

"(2.) Goods that are delivered for home consumption by authority of the last preceding sub-section shall, for the purposes of this Act, be deemed to be entered for home consumption on the day the approval of the Collector was granted in relation to the goods.

"(3.) In this section, 'prescribed goods' means imported goods subject to the control of the Customs that are included in a class of goods prescribed for the purposes of this section.

Permission to
deliver goods
of approved
kind for
home
consumption
without entry.

"71B.—(1.) A Collector may give permission in writing to a person specified in the permission to deliver for home consumption from a place specified in the permission goods of a kind so specified that are subject to the control of the Customs, and, until the permission is revoked, the permission is authority for that person to deliver for home consumption from that place goods of that kind that are subject to the control of the Customs (other than goods that a Collector has directed are not to be delivered for home consumption under this section or goods that may be delivered for home consumption by authority of sub-section (1.) of the last preceding section) notwithstanding that an entry of the goods for home consumption has not been made and passed under this Act.

"(2.) Goods delivered for home consumption by authority of the last preceding sub-section shall, for the purposes of this Act, be deemed to be entered for home consumption on the day on which they are so delivered.

"(3.) Permission under sub-section (1.) of this section may be given subject to the condition that the person to whom the permission is given complies with such requirements as are specified in the permission, being requirements that, in the opinion of the Collector, are necessary for the protection of the revenue of the Customs or for the purpose of ensuring compliance with the Customs Acts.

"(4.) If, in relation to the delivery for home consumption of any goods, a person to whom permission has been given under sub-section (1.) of this section fails to comply with a requirement specified in the permission—

- (a) he is guilty of an offence against this Act punishable, upon conviction, by a penalty not exceeding One thousand dollars; and
- (b) if he failed to comply with the requirement before the goods were delivered for home consumption, the removal of the goods for the purposes of the delivery shall, for the purposes of paragraph (g) of section two hundred and twenty-nine of this Act, be deemed not to have been authorized by this Act."

14. Section 72 of the Principal Act is amended by inserting after the word "unshipped" (second occurring) the words "(other than cargo consisting of goods that, under this Act, may be delivered for home consumption otherwise than in pursuance of an entry for home consumption)".

Entry within seven days.

15. Section 75 of the Principal Act is repealed.

Unshipment of goods.

16. Sections 83 and 84 of the Principal Act are repealed.

Repeal of sections 83 and 84.

17. Section 86 of the Principal Act is repealed.

Packages in which goods to be deposited.

18. Section 88 of the Principal Act is repealed.

Fresh accounts to be taken.

19. Section 92 of the Principal Act is amended—

Duty of licensee.

- (a) by omitting from paragraph (2) the words "the officer" and inserting in their stead the word "officers";
- (b) by omitting from paragraph (2A) the words "the officer employed at the warehouse" and inserting in their stead the words "officers doing duty at the warehouse"; and
- (c) by omitting from paragraph (4) the words "the officer" and inserting in their stead the words "an officer".

20. Section 96 of the Principal Act is amended—

Re-warehousing.

- (a) by omitting paragraph (b) and inserting in its stead the following paragraph:—

"(b) The goods shall, for the purpose of ascertaining whether there is a deficiency in the goods, be examined by the owner or by an officer, at the expense of the owner, and,

where the goods are examined by the owner, he shall keep a written record of the result of the examination and, if so requested by a Collector, furnish a copy of the record to the Collector."; and

(b) by omitting paragraph (e).

Regauging,
Ac., of goods.

21. Section 99 of the Principal Act is amended by omitting the words "regauged remeasured reweighed or examined by the officer either by direction of the Collector or at the request and expense of the owner" and inserting in their stead the words "examined by an officer or, with the approval of an officer, by the owner,".

22. Section 114 of the Principal Act is repealed and the following section inserted in its stead:—

Entry of goods
for export.

"114.—(1.) Subject to this Act, the owner of goods intended for export shall enter the goods for export—

(a) in the case of dutiable goods—before the goods are taken on board the ship or aircraft in which they are to be exported; or

(b) in any other case—not later than three days after a Certificate of Clearance has been granted to the master of the ship, or the pilot of the aircraft, in which the goods are to be exported.

"(2.) The last preceding sub-section does not apply in relation to goods which, under the regulations, are exempt from this section.

"(3.) The regulations may require the person who exports goods which, under the regulations, are exempt from this section to furnish in writing to a Collector, within the prescribed period after the goods are exported, such information in respect of the goods as is prescribed."

Goods to be
shipped at
wharf.

23. Section 115 of the Principal Act is repealed.

Shipment
of goods.

24. Section 120 of the Principal Act is amended by omitting paragraph (c) and inserting in its stead the following paragraph:—

"(c) stores in respect of which the approval of a Collector has been granted under section one hundred and twenty-nine of this Act; or".

Use of ships'
and aircraft's
stores.

25. Section 127 of the Principal Act is amended by inserting in paragraph (b), after the words "shall not", the words ",except with the consent of the Collector,".

26. Sections 129, 130, 130A and 130B of the Principal Act are repealed and the following sections inserted in their stead:—

Ships' and
aircraft's stores
not to be taken
on board without
approval.

"129.—(1.) The master or owner of a ship or the pilot or owner of an aircraft may make application to a Collector for the approval of the Collector to take ship's stores or aircraft's stores on board the ship or aircraft and the Collector may grant to the master, pilot or owner of the ship or aircraft approval to take on board such ship's stores or such

aircraft's stores as the Collector, having regard to the voyage or flight to be undertaken by the ship or aircraft and to the number of passengers and crew to be carried, determines.

"(2.) Approval under the last preceding sub-section may be granted subject to the condition that the person to whom the approval is granted complies with such requirements as are specified in the approval, being requirements that, in the opinion of the Collector, are necessary for the protection of the revenue of the Customs or for the purpose of ensuring compliance with the Customs Acts.

"(3.) If, in relation to any goods, a person to whom an approval has been granted under sub-section (1.) of this section fails to comply with a requirement specified in the approval—

- (a) he is guilty of an offence against this Act punishable, upon conviction, by a penalty not exceeding One thousand dollars; and
- (b) if he failed to comply with a requirement before the goods were placed on board the ship or aircraft—the removal of the goods for the purpose of placing the goods on board the ship or aircraft shall, for the purposes of paragraph (g) of section two hundred and twenty-nine of this Act, be deemed not to have been authorized by this Act.

"(4.) Ship's stores or aircraft's stores taken on board a ship or aircraft otherwise than in accordance with an approval granted under sub-section (1.) of this section shall, notwithstanding that the goods are taken on board by authority of an entry under this Act, be deemed, for the purposes of this Act, to be prohibited exports.

"130. Except as provided by the regulations, ship's stores and aircraft's stores are not liable to duties of Customs.

Ship's and aircraft's stores exempt from duty.

"130A. Goods consisting of ship's stores or aircraft's stores, other than goods of a prescribed kind, may be taken on board a ship or aircraft in accordance with an approval granted under section one hundred and twenty-nine of this Act notwithstanding that an entry has not been made and passed in respect of the goods authorizing the removal of the goods to the ship or aircraft and duty has not been paid on the goods.

Entry not required for ship's or aircraft's stores.

"130B.—(1.) Where duty is payable on goods taken on board a ship as ship's stores, or on board an aircraft as aircraft's stores, in accordance with an approval granted under section one hundred and twenty-nine of this Act without duty having been paid on the goods, the duty shall, on demand for payment of the duty being made by a Collector to the master or owner of the ship or to the pilot or owner of the aircraft, be paid as if the goods had been entered for home consumption on the day on which the demand was made.

Payment of duty on ship's or aircraft's stores.

"(2.) The owner of a ship or aircraft or, if so directed by an officer, the master of a ship or the pilot of an aircraft, shall, immediately before the departure of the ship or aircraft from Australia and whenever so

directed by an officer, furnish to a Collector, in accordance with the prescribed form, a return relating to the ship's stores of the ship or the aircraft's stores of the aircraft and to goods taken on board the ship as ship's stores or on board the aircraft as aircraft's stores.

Definitions.

"130c. In this Part—

'aircraft' does not include a coasting aircraft;

'aircraft's stores' means stores for the use of the passengers or crew of an aircraft, or for the service of an aircraft;

'ship' does not include a coasting ship;

'ship's stores' means stores for the use of the passengers or crew of a ship, or for the service of a ship."

27. After section 132 of the Principal Act the following section is inserted:—

Pre-payment of duty.

"132A. Where, before goods are entered for home consumption, an amount is paid to a Collector in respect of duty that may become payable in respect of the goods, the amount shall, upon the goods being entered for home consumption, be deemed, for the purposes of this Act, to be an amount of duty paid in respect of the goods."

Samples.

28. Section 150 of the Principal Act is amended by omitting the words "subject to the prescribed conditions" and inserting in their stead the words "with the approval of a Collector,".

When goods deemed to be the produce or manufacture of a country.

29. Section 151 of the Principal Act is amended by omitting the words "section twenty-two "(wherever occurring) and inserting in their stead the words "section thirty-three c " .

Direct shipment to Australia required for certain preferences.

30. Section 151A of the Principal Act is amended by omitting the words "section twenty-two "(wherever occurring) and inserting in their stead the words "section thirty-three c " .

31. After section 162A of the Principal Act the following section is inserted:—

Pallets used in international transport.

"162B.—(1.) Where pallets are delivered under the last preceding section and it would be a contravention of the Convention by the Commonwealth to collect duty on the pallets, duty is not payable on the pallets.

"(2.) Where pallets are to be exported and it would be a contravention of the Convention by the Commonwealth to require the goods to be entered for export, the pallets may be exported without being entered for export.

"(3.) This section is in addition to, and not in derogation of, the provisions of sub-sections (5.) and (6.) of the last preceding section.

"(4.) In this section—

'pallet' has the same meaning as in the Convention;

'the Convention' means the European Convention on Customs Treatment of Pallets used in International Transport signed at Geneva on the ninth day of December, One thousand nine hundred and sixty, as affected by any amendment of the Convention that has come into force."

32. Section 163 of the Principal Act is amended by inserting after sub-section (1.) the following sub-section:— Refunds of duty.

"(2.) Where—

(a) goods have not been entered for home consumption but an amount has been paid to a Collector in respect of duty that may become payable in respect of the goods; and

(b) a Collector is satisfied that duty will not become payable in respect of the goods or duty of less than that amount will become payable in respect of the goods or, for any other reason, is satisfied that a refund of the whole or a part of the amount should be made,

he may authorize a refund of the whole of the amount or of such part as he thinks proper, and thereupon a refund of the amount or of that part may be made."

33. Section 165 of the Principal Act is amended by adding at the end thereof the following sub-section:— Short paid duty may be recovered.

"(2.) For the purposes of the last preceding sub-section, a drawback of duty shall be deemed to be a refund of duty."

34. Section 168 of the Principal Act is repealed and the following section inserted in its stead:—

"168. The regulations may make provision for and in relation to allowing drawbacks of duty paid on goods imported into Australia." Drawbacks of import duty.

35. Section 229 of the Principal Act is amended by omitting paragraph (g) and inserting in its stead the following paragraph:— Forfeited goods.

"(g) All goods subject to the control of the Customs that are moved, altered or interfered with except as authorized by this Act."

36. After section 277 of the Principal Act the following section is inserted:—

"278. The right of a person under this Act to examine goods includes the right to count, measure, weigh or gauge the goods." Examination of goods.

37. At any time after this Act receives the Royal Assent and before the date fixed under sub-section (3.) of section 2 of this Act, regulations may be made under the Principal Act as amended by this Act as if the provisions of this Act referred to in that sub-section had come into operation on the date on which this Act receives the Royal Assent, but regulations so made shall not come into operation before the date fixed under that sub-section. Making of regulations.