**Customs Amendment Act (No. 3) 1980**

**No. 110 of 1980**

**An Act to amend the *Customs Act* 1901, and for other purposes**

[*Assented to 6 June 1980*]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

**Short title, &c.**

**1.** **(1)** This Act may be cited as the *Customs Amendment Act* (*No.* 3) 1980.

**(2)** The *Customs Act* 1901 is in this Act referred to as the Principal Act.

**Commencement**

**2.** **(1)** Subject to sub-section (2), this Act shall come into operation on the day on which it receives the Royal Assent.

**(2)** Paragraph 3(b) and sections 4 and 5 shall come into operation on a date to be fixed by Proclamation.

**Interpretation**

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

(a) by omitting from sub-section (1) the definition of “Goods” and substituting the following definition:

“‘Goods’ includes—

(a) ships, boats and aircraft; and

(b) all kinds of movable personal property.”;

(b) by omitting from sub-section (1) the definition of “Port” and substituting the following definition:

“‘Port’ means a port appointed under section 15.”; and

(c) by omitting from that sub-section the definitions of “Warehouse” and “Wharf” and substituting the following definitions:

“‘Warehouse’ means a place that a person or partnership is licensed under section 79 to use for warehousing goods.

“‘Warehoused goods’ means—

(a) goods received into a warehouse in pursuance of an entry for warehousing or permission granted under section 40aa; or

(b) goods manufactured in a warehouse in compliance with this Act.

“‘Wharf’ means a wharf appointed under section 15.”.

**4. (1**) Sections 15 and 16 of the Principal Act are repealed and the following section is substituted:

**Appointment of ports, &c.**

“15. (1) The Minister 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.

“(2) The Comptroller 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 sub-section (1) or (2) may provide that a port, airport, wharf or boarding station appointed by the notice is to be a port, airport, wharf or boarding station for limited purposes specified in the notice.”.

**(2)** Subject to any notices under sub-section (3) or (4)—

(a) all places that, immediately before the commencement of this section, were ports, airports, wharves or boarding stations for the purposes of the Principal Act shall be deemed to be ports, airports, wharves or boarding stations, as the case may be, appointed under section 15 of the Principal Act as amended by this Act;

(b) the limits of any such port, airport or wharf shall be those existing immediately before the commencement of this section; and

(c) where any such port has been established, or any such wharf or airport has been appointed, for limited purposes—it shall be deemed to be a port, airport or wharf for those limited purposes.

**(3)** The Minister may, by notice published in the *Gazette—*

(a) declare that a specified port or airport referred to in sub-section (2) is to cease to be deemed to be a port or airport appointed under section 15 of the *Customs Act* 1901;

(b) vary the limits of a specified port or airport referred to in that sub-section; or

(c) in the case of a port or airport referred to in that sub-section that is deemed to be a port or airport for limited purposes—vary those purposes,

and that declaration or variation shall have effect accordingly.

**(4)** The Comptroller may, by notice published in the *Gazette—*

(a) declare that a specified wharf or boarding station referred to in sub-section (2) is to cease to be deemed to be a wharf or boarding station appointed under section 15 of the *Customs Act* 1901;

(b) vary the limits of a wharf referred to in that sub-section; or

(c) in the case of a wharf referred to in that sub-section that is a wharf for limited purposes—vary those purposes,

and that declaration or variation shall have effect accordingly.

**Continuance of boarding stations, &c.**

**5.** Section 18 of the Principal Act is repealed.

**6.** Sections 28 and 29 of the Principal Act are repealed and the following section is substituted:

**Working days and hours**

“28. (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) Where a person requests a Collector to arrange for an officer to be available to perform a function at a place outside hours prescribed under sub-section (1) for the performance of that function at that place, the Collector may comply with that request, but the person shall, except in a case where the regulations provide otherwise, pay to the Customs such fee as the Minister determines, having regard to the cost of making officers available for the purposes of this section.”.

**7.** After section 49 of the Principal Act the following section is inserted in Division 1aof Part IV:

**Ships and aircraft deemed to be imported**

“49a. (1) Where—

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

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

he may serve, in accordance with sub-section (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 sub-section (1) has been served in respect of a ship or an aircraft, a Collector, if he 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 sub-section (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 sub-section (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 under sub-section (2), that period as extended, revoke that notice by serving, in accordance with sub-section (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 sub-section (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 sub-section (1), (2) or (3) in respect of a ship or an aircraft, he 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 sub-section (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 sub-section (1) in respect of a ship or aircraft;

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

(c) the notice has not been revoked under sub-section (3);

(d) the ship or aircraft has remained in Australia throughout the period specified in the notice, or, if that period has been extended under sub-section (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 purposes 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.”.

**Prohibition of the importation of goods**

**8.** Section 50 of the Principal Act is amended by inserting after sub-section (3) the following sub-section:

“(3a) Without limiting the generality of sub-paragraph (ii) of paragraph (b) of sub-section (3), a condition referred to in that sub-paragraph 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.”.

**Prohibited imports**

**9.** Section 51 of the Principal Act is amended—

(a) by omitting “the last preceding section” and substituting “section 50”; and

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

“(2) Notwithstanding the generality of sub-section (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.”.

**10.** **(1)** Part V of the Principal Act is repealed and the following Part substituted:

**“PART V—WAREHOUSES**

**Interpretation**

“78. (1) In this Part, unless the contrary intention appears—

‘place’ includes an area, a building and a part of a building;

‘warehouse’, in relation to a warehouse licence, means the warehouse to which the licence relates;

‘warehouse licence’ means a licence granted under section 79 and includes such a licence that has been renewed under section 84.

“(2) A reference in this Part to the Comptroller shall be read as including a reference to a Collector of Customs for a State or Territory.

“(3) For the purposes of this Part, a person shall be taken to participate in the management or control of a warehouse if—

(a) he has authority to direct the operations of the warehouse or to direct activities in the warehouse, the removal of goods from the warehouse, or another important part of the operations of the warehouse; or

(b) he has authority to direct a person who has authority referred to in paragraph (a) in the exercise of that authority.

**Warehouse licences**

“79. (1) Subject to this Part, the Comptroller may grant a person or partnership a licence in writing, to be known as a warehouse licence, to use a place described in the licence for warehousing goods.

“(2) A warehouse licence may be a licence to use a place for warehousing goods generally, goods included in a specified class or specified classes of goods or goods other than goods included in a specified class or specified classes of goods.

“(3) A warehouse licence may authorize manufacturing, processing, trading or other activities specified in the licence to be carried on in the warehouse.

**Applications for warehouse licences**

“80. An application for a warehouse licence shall—

(a) be in writing;

(b) contain a description of the place in relation to which the licence is sought;

(c) specify the kinds of goods that would be warehoused in that place if it were a warehouse;

(d) set out the name and address of each person whom the Comptroller is required to consider for the purposes of paragraph (a), (b), (c) or (d) of sub-section (1) of section 81;

(e) set out such particulars of the matters that the Comptroller is required to consider for the purposes of paragraph (e), (f) or (g) of sub-section (1) of section 81 as will enable him adequately to consider those matters; and

(f) contain such other information as is prescribed.

**Requirements for grant of warehouse licence**

“81. (1) The Comptroller shall not grant a warehouse licence if, in his opinion—

(a) where the applicant is a natural person—the applicant is not a fit and proper person to hold a warehouse licence;

(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;

(c) where the applicant is a company—any director, officer or shareholder of the company who would participate in the management or control of the warehouse is not a fit and proper person so to participate;

(d) an employee of the applicant who would participate in the management or control of the warehouse is not a fit and proper person so to participate;

(e) the physical security of the place in relation to which the licence is sought is not adequate having regard to—

(i) the kinds of goods that would be kept in that place if it were a warehouse; or

(ii) the procedures and methods that would be adopted by the applicant to ensure the security of goods in the place if it were a warehouse;

(f) the plant and equipment that would be used in relation to goods in the place in relation to which the licence is sought if it were a warehouse are not suitable having regard to the nature of those goods and that place; or

(g) the books of account or records that would be kept in relation to the place in relation to which the licence is sought if it were a warehouse would not be suitable to enable the Customs adequately to audit those books or records.

“(2) The Comptroller shall, in determining whether a person is a fit and proper person for the purposes of paragraph (a), (b), (c) or (d) of sub-section (1), 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;

(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;

(c) whether the person is an undischarged bankrupt;

(d) any misleading statement made in 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.

**Conditions of warehouse licences**

“82. (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 the warehouse commences so to participate;

(b) in the case of a licence held by a partnership—there is a change in the membership of the partnership;

(c) a person who participates in the management or control of the warehouse, the holder of the licence or, in the case of a licence held by a partnership, a member of the partnership, is convicted of an offence referred to in paragraph (a) or (b) of sub-section (2) of section 81 or becomes bankrupt;

(d) there is a substantial change in a matter affecting the physical security of the warehouse;

(e) there is a substantial change in plant or equipment used in relation to goods in the warehouse; or.

(f) there is a substantial change in the keeping of accounts or records kept in relation to the warehouse,

the holder of the licence shall, within 30 days after the occurrence of the event, change, conviction or bankruptcy, as the case requires, give the Comptroller particulars in writing of that event, change, conviction or bankruptcy, as the case requires.

“(2) A warehouse licence is subject to such other conditions (if any) as are prescribed.

“(3) A warehouse licence is subject to such other conditions (if any) as are specified in the licence, being conditions considered by the Comptroller to be necessary or desirable for the protection of the revenue.

“(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 the warehouse; and

(b) conditions limiting the operations that may be formed upon, or in relation to, goods in the warehouse.

“(5) The Comptroller may, upon application by the holder of a warehouse licence and production of the licence, vary the conditions specified in the licence by making an alteration to, or an endorsement on, the licence.

**Duration of warehouse licence**

“83. A warehouse licence—

(a) comes into force on a date specified in the licence or, if no date is so specified, the date on which the licence is granted; and

(b) subject to this Part, remains in force until 30 June next following the grant of the licence but may be renewed in accordance with section 84.

**Renewal of warehouse licence**

“84. (1) The Comptroller may, by writing, renew a warehouse licence on the application, in writing, of the holder of the licence.

“(2) Where a warehouse licence is renewed, the Comptroller may specify conditions different from those specified in the original licence.

“(3) The Comptroller may refuse to renew a licence if he is satisfied that, if the licence were renewed, he would be entitled to cancel the licence.

“(4) Subject to this Part, a warehouse licence that has been renewed continues in force for 12 months but may be further renewed.

**Fees for warehouse licences**

“85. (1) Such fees as are prescribed are payable in respect of warehouse licences.

“(2) Regulations for the purposes of sub-section (1) may prescribe—

(a) annual fees in respect of warehouse licences;

(b) fees calculated in accordance with the duration of warehouse licences;

(c) a fee for each transaction, or each transaction in a class of transactions, involving the movement of goods into or out of the warehouse to which a warehouse licence relates; and

(d) a fee calculated by reference to the volume or value of transactions, or of a specific class of transactions, relating to goods in the warehouse to which a warehouse licence relates.

“(3) Different fees may be prescribed in relation to warehouse licences subject to different conditions or in relation to warehouse licences for warehouses of different kinds.

**Suspension of warehouse licences**

“86. (1) The Comptroller may give notice in accordance with this section to the holder of a warehouse licence if he has reasonable grounds for believing that—

(a) the physical security of the warehouse is no longer adequate having regard to the matters referred to in paragraph (e) of sub-section (1) of section 81;

(b) the plant and equipment used in the warehouse are such that the protection of the revenue in relation to goods in the warehouse is inadequate;

(c) where the licence is held by a natural person—that person is not a fit and proper person to hold a warehouse licence;

(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;

(e) where the licence is held by a company—a director, officer or shareholder of the company who participates in the management or control of the warehouse is not a fit and proper person so to participate;

(f) an employee of the holder of the licence, being an employee who participates in the management or control of the warehouse, is not a fit and proper person so to participate;

(g) a condition to which the licence is subject has not been complied with; or

(h) a fee payable in respect of a licence is unpaid and has been unpaid for 28 days after the day on which it became payable,

or it otherwise appears to him to be necessary for the protection of the revenue to give the notice.

“(2) Notice in accordance with this section to the holder of a warehouse licence shall be in writing and shall be—

(a) served, either personally or by post, on the holder of the licence; or

(b) served personally on a person who, at the time of service, apparently participates in the management or control of the warehouse.

“(3) A notice in accordance with this section to the holder of a warehouse licence—

(a) shall state that, if the holder of the licence wishes to prevent the cancellation of the licence, he may, within 7 days after the day on which the notice was served, furnish to the Comptroller at an address specified in the notice a written statement showing cause why the licence should not be cancelled; and

(b) may, if it appears to the Comptroller to be necessary for the protection of the revenue to do so, state that the licence is suspended,

and, if the notice states that the licence is suspended, that licence is suspended on and from the service of the notice.

“(4) A notice in accordance with this section to the holder of a warehouse licence shall—

(a) state the ground or grounds on which the notice is given; and

(b) if the notice states that the licence is suspended—also state that any person whose interests are affected by the suspension may make an application to the Administrative Appeals Tribunal for a review of the decision to suspend the licence.

“(5) Where a warehouse licence is suspended under this section, the Comptroller—

(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—shall revoke the suspension.

“(6) Subject to sub-section (7), during a period in which a warehouse licence is suspended under this section, a person shall not use the warehouse for warehousing goods.

Penalty: $1,000.

“(7) Notwithstanding sub-section (6), during a period in which a warehouse licence is suspended under this section, a Collector may—

(a) permit goods to be placed in the warehouse;

(b) permit a process to be carried out in the warehouse;

(c) permit the removal of goods from the warehouse, including the removal of goods to another warehouse;

(d) by notice in writing to the owner of goods in the warehouse, require him to remove his goods to another warehouse approved by the Collector;

(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; and

(f) by notice in writing to the holder of the licence, require him to pay to the Customs 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 Minister determines, having regard to the cost of the services.

“(8) If an amount that the holder of a licence is required to pay in accordance with a notice under paragraph (f) of sub-section (7) is not paid, that amount may be recovered as a debt due to the Commonwealth by action in a court of competent jurisdiction.

**Cancellation of warehouse licences**

“87. (1) The Comptroller may cancel a warehouse licence if—

(a) he is satisfied in relation to the licence as to any of the matters mentioned in paragraphs (a) to (h) (inclusive) of sub-section (1) of section 86; or

(b) he is satisfied on any other grounds that cancellation of the licence is necessary for the protection of the revenue.

“(2) The Comptroller shall cancel a warehouse licence under sub-section (1) by notice in writing—

(a) served, either personally or by post, on the holder of the licence; or

(b) served personally on a person who, at the time of service, apparently participates in the management or control of the warehouse.

“(3) A notice under sub-section (2) of the cancellation of a warehouse licence shall set out the ground or grounds of the cancellation of the licence and shall state that any person whose interests are affected by the cancellation may make an application to the Administrative Appeals Tribunal for a review of the decision to cancel the licence.

“(4) Subject to sub-section (5), where the Comptroller cancels a warehouse licence, he shall by notice—

(a) published by being displayed on a public Notice Board in the Customs House or other office of the Customs nearest to the warehouse;

(b) published in the *Gazette;* and

(c) published in a newspaper circulating in the locality in which the warehouse is situated,

inform the owners of goods in the place that was the warehouse—

(d) that they are required, within a time specified in the notice or any further time allowed by the Comptroller, to—

(i) pay to the Collector duty payable in respect of their goods in the warehouse; or

(ii) remove their goods in the warehouse to another place in accordance with permission obtained from the Collector; and

(e) that, if they do not comply with the requirements of the notice, their goods in that place will be sold.

“(5) Where the Comptroller who has cancelled a warehouse licence under this section is satisfied that all the goods in the place that was the warehouse are the property of the person who held the licence, the notice referred to in sub-section (4) need not be published as mentioned in that sub-section but shall be—

(a) served, either personally or by post, on that person; or

(b) served personally on a person who, at the time of the cancellation of the licence, apparently participated in the management or control of the place that was the warehouse.

“(6) Where the owner of goods to which a notice under sub-section (4) 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, the goods may be sold by a Collector.

“(7) Where a warehouse licence is cancelled under this section, the holder of the licence shall, if requested by the Comptroller to do so, surrender the licence to the Comptroller.

Penalty: $100.

**Service of notices**

“88. For the purpose of the application of section 29 of the *Acts Interpretation Act* 1901 to the service by post of a notice under this Part on a person who holds or held a warehouse licence, such a notice posted as a letter addressed to the person at the address of the place that is or was the warehouse shall be deemed to be properly addressed.

**Death of licence holder**

“89. If the holder of a warehouse licence, being a natural person, dies, the licence shall be deemed to be transferred to his legal personal representative.

**Obligations of holders of warehouse licences**

“90. The holder of a warehouse licence shall—

(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 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: $250.

**Access to warehouses**

“91. A Collector may, at any time, gain access to and enter, if necessary by force, any warehouse and examine any goods in the warehouse.

**Repacking in warehouse**

“92. A Collector may, in accordance with the regulations, permit the owner of warehoused goods to sort, bottle, pack or repack those goods.

**Regauging, &c., of goods**

“93. 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.

**Goods not worth duty may be destroyed**

“94. (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 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 sub-section (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.

**Revaluation**

“95. Where a Collector is satisfied that warehoused goods that have been valued for the purposes of this Act in accordance with section 154 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 section 154, revalue those goods as at the time of the revaluation.

**Arrears of warehouse charges**

“96. (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.

**Goods for public exhibition**

“97. (1) A Collector may, by writing signed by him, 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 sub-section (1) shall specify the period during which the owner of the relevant goods may keep the goods outside the warehouse.

“(3) The owner of goods in relation to which permission has been granted under sub-section (1) shall not take the goods out of the warehouse 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.

Penalty: $1,000.

**Goods manufactured in warehouse**

“98. Subject to the regulations, where a warehouse licence authorizes manufacturing in the warehouse, goods may be manufactured in the warehouse in accordance with, and subject to any relevant conditions of, the licence, and goods so manufactured 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.

**Entry of warehoused goods**

“99. Warehoused goods may be entered—

(a) for home consumption; or

(b) for export to parts beyond the seas.

**Constructive warehousing**

“100. (1) Where goods have been entered for warehousing, they may, without being warehoused in accordance with the entry, be further entered in accordance with section 99 and be dealt with in accordance with that further entry as if they had been so warehoused.

“(2) Where a person makes a further entry in accordance with sub-section (1) in respect of goods that have been entered for warehousing, he shall—

(a) at the time of lodging the further entry, give the Collector particulars of the entry for warehousing; and

(b) as soon as practicable, give particulars of the further entry to the holder of the warehouse licence relating to the warehouse in which the goods were intended to be warehoused in accordance with the entry for warehousing.

Penalty: $500.

**Delivery of warehousing authority**

“101. 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, he shall, as soon as practicable, before the goods are delivered to the 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: $500.

**Holder of licence to inform Collector of certain matters**

“102. (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 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.

“(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: $500.”.

**(2)** Notwithstanding the amendments of the Principal Act made by sub-section (1)—

(a) licences granted under section 78 of the Principal Act and in force immediately before the commencement of this section continue in force until 30 June 1980; and

(b) Part V of the Principal Act continues to apply to licences in force by virtue of paragraph (a).

**11. (1)** Divisions 1, 2 and 3 of Part XI of the Principal Act are repealed and the following Divisions substituted:

***“Division 1*—*Preliminary***

**Interpretation**

“180. (1) In this Part, unless the contrary intention appears—

‘agents licence’ means a licence to act as a customs agent granted under section 183c and includes such a licence that has been renewed under section 183cj;

‘Committee’ means the National Customs Agents Licensing Advisory Committee established by section 183d;

‘corporate customs agent’ means a customs agent that is a company or a partnership;

‘customs agent’ means a person who is the holder of an agents licence that is in force and, in relation to a place, means a person who is the holder of such a licence to act as a customs agent at that place;

‘nominee’, in relation to a corporate customs agent, means a customs agent whose name is endorsed on the agents licence held by the corporate customs agent as a nominee of the corporate customs agent;

‘person’ means a natural person, a company or a partnership;

‘prescribed offence’ means-—

(a) an offence against this Act; or

(b) an offence punishable under a law of the Commonwealth (other than this Act), or by a law of a State or of a Territory, by imprisonment for one year or longer.

“(2) A reference in this Part to the Comptroller shall be read as including a reference to a Collector of Customs for a State or Territory.

***“Division 2*—*Rights and liabilities of agents***

**Authorized agents**

“181. (1) Subject to sub-section (2), an owner of goods may, in writing, authorize a person to be his agent for the purposes of the Customs Acts at a place or places specified by the owner.

“(2) Where the Minister, by notice published in the *Gazette,* declares that a place specified in the notice is a place to which this sub-section applies, an owner of goods shall not authorize a person to be his agent for the purposes of the Customs Acts at that place unless that person is—

(a) a natural person who is an employee of the owner and is not an employee of any other person; or

(b) a customs agent at that place.

“(3) Where an owner of goods authorizes a person to be his agent for the purposes of the Customs Acts at a place, the owner may comply with the provisions of, or requirements under, the Customs Acts at that place by—

(a) except where paragraph (b) applies—that agent; or

(b) where the agent is a corporate customs agent—a nominee of the corporate customs agent who is a customs agent at that place.

“(4) A person, other than the owner of goods or a person who, in accordance with this section, may comply with the provisions of, or requirements under, the Customs Acts on behalf of the owner in relation to those goods, shall not—

(a) do any act or thing in relation to the goods that is required or permitted to be done by the owner of the goods under the Customs Acts; or

(b) represent that he is able to do, or able to arrange to be done, any act or thing in relation to the goods that is required or permitted to be done by the owner under the Customs Acts.

“(5) A person who contravenes sub-section (4) is guilty of an offence punishable on conviction—

(a) in the case of a person not being a company—by a fine not exceeding $200; or

(b) in the case of a person being a company—by a fine not exceeding $1,000.

**Authority to be produced**

“182. (1) Where a person claims to be the agent of an owner of goods for the purposes of the Customs Acts at a place, an officer may require that person to produce written authority from the owner authorizing that person to be such an agent and, if that written authority is not produced, the officer may refuse to recognize the authority of that person to act on behalf of the owner at that place.

“(2) Where a nominee of a corporate customs agent claims that that corporate customs agent is the agent of an owner of goods for the purposes of the Customs Acts at a place, an officer may require the nominee to produce a copy of the written authority from the owner of the goods authorizing the corporate customs agent to be such an agent and, if that written authority is not produced, the officer may refuse to recognize the authority of the nominee to act on behalf of the owner at that place.

**Agents personally liable**

“183. (1) Where a person is, holds himself out to be or acts if he were the agent of an owner of goods for the purposes of the Customs Acts, that person shall, for the purposes of the Customs Acts (including liability to penalty), be deemed to be the owner of those goods.

“(2) Where a corporate customs agent is the agent of an owner of goods for the purposes of the Customs Acts and a person who is, holds himself out to be or acts as if he were a nominee of that corporate customs agent acts in relation to those goods, that person shall, for the purposes of those Acts, (including liability to penalty), be deemed to be the owner of those goods.

“(3) Any act done, or representation made, by a nominee of a corporate customs agent for the purposes of the Customs Acts shall be deemed to be an act done or, a representation made, by that corporate customs agent.

“(4) Nothing in this section shall be taken to relieve any owner from liability.

**Principal liable for agents acting**

“183a. (1) Where an agent of, or a nominee of a corporate customs agent that is an agent of, an owner of goods makes a declaration for the purposes of this Act in relation to those goods, that declaration shall, for the purposes of this Act (including the prosecution of an offence against this Act), be deemed to be made with the knowledge and consent of the owner.

“(2) Notwithstanding any other provision of this Act, a person who is convicted of an offence by reason of the operation of sub-section (1) shall not be subject to a penalty of imprisonment.

***“Division 3*—*Licensing of customs agents***

**Interpretation**

“183b. (1) In this Division, unless the contrary intention appears, ‘application’ means an application under section 183ca.

“(2) For the purposes of this Division, a person shall be taken to participate in the work of a corporate customs agent if—

(a) he has authority as a nominee of, or as an agent, officer or employee of, the corporate customs agent, to do any act or thing for the purposes of the Customs Acts on behalf of an owner of goods; or

(b) he has authority to direct a person who has authority referred to in paragraph (a) in the exercise of that authority.

**Grant of licence**

“183c. (1) Subject to this Part, the Comptroller may grant a person a licence in writing, to be known as an agents licence, to act as a customs agent at a place or places specified in the licence.

“(2) An agents licence granted to a corporate customs agent shall not specify a place as a place at which the corporate customs agent may act as a customs agent unless the licence specifies as a nominee of the corporate customs agent a customs agent at that place who, in accordance with section 183cd, is eligible to be its nominee.

**Application for licence**

“183ca. (1) An application for an agents licence shall—

(a) be in writing;

(b) specify the place or places at which the applicant proposes to act as a customs agent;

(c) where the application is made by a company or a partnership—specify the person or each person who, if the licence is granted, is to be its nominee;

(d) set out the name and address of each person whom the Comptroller is required to consider for the purposes of sub-paragraph (i) of paragraph (a) of sub-section (1), or paragraph (b) or (c) of sub-section (1), of section 183cc;

(e) set out such particulars of the persons and matters that the Comptroller is required to consider for the purposes of sub-paragraph (ii) of paragraph (a) of sub-section (1) of section 183cc and section 183cd as will enable him adequately to consider those matters; and

(f) contain such other information as is prescribed.

“(2) Where a company or a partnership makes an application, it—

(a) shall not propose a person as its nominee at a place unless, at the time the application is made—

(i) that person is a customs agent or a person qualified to become a customs agent;

(ii) where that person is acting as the nominee of a corporate customs agent—he intends, if an agents licence is granted to the applicant, to cease so to act; or

(iii) where that person is acting as a customs agent in his own right—he intends, if an agents licence is granted to the applicant, to cease so to act; and

(b) shall not propose a person as its nominee at more than one place unless that person will be able to attend to his duties as nominee at each of those places in a satisfactory manner.

“(3) A person shall not be proposed under paragraph (c) of sub-section (1)unless he has consented, in writing, to the proposal.

**Reference of application to Committee**

“183cb. (1) Where the Comptroller receives an application, he shall refer the application to the Committee for a report relating to the application and shall not grant, or refuse to grant, an agents licence to the applicant unless he has received and considered the report.

“(2) Where the Comptroller refers an application to the Committee under sub-section (1),the Committee shall investigate the matters that the Comptroller is required to consider in relation to the application and, after its investigation, the report to the Comptroller on those matters.

**Requirements for grant of licence**

“183cc. (1) Where an application is made, the Comptroller shall not grant an agents licence if, in his opinion—

(a) where the application is made by a natural person—

(i) the applicant is not a person of integrity; or

(ii) the applicant is not qualified to be a customs agent;

(b) where the application is made by a company—

(i) a director of the company who would participate in the work of the company if it were a customs agent is not a person of integrity; or

(ii) an officer or employee of the company who would participate in the work of the company if it were a customs agent is not a person of integrity; or

(c) where the application is made by a partnership—

(i) a partner in the partnership is not a person of integrity; or

(ii) an employee of the partnership who would participate in the work of the partnership if it were a customs agent is not a person of integrity.

“(2) For the purposes of sub-section (1), an applicant shall be taken to be qualified to be a customs agent if, and only if—

(a) except where he has been exempted under sub-section (3), he has completed a course of study or instruction approved under sub-section (5); and

(b) he has acquired experience that, in the opinion of the Comptroller, fits him to be a customs agent.

“(3) The Comptroller may, by writing signed by him, exempt an applicant from the requirements of paragraph (a) of sub-section (2) where, having regard to the experience or training of the applicant, he considers that it is appropriate to do so.

“(4) The Comptroller shall, in determining whether a person is a person of integrity for the purposes of sub-section (1), have regard to—

(a) any conviction of the person for a prescribed offence committed within the 10 years immediately preceding the making of the application;

(b) whether the person is an undischarged bankrupt;

(c) any misleading statement made in the application by or in relation to the person; and

(d) where any statement by the person in the application was false—whether the person knew that the statement was false.

“(5) The Minister may, after obtaining and considering the advice of the Committee, approve, in writing, a course or courses of study or instruction that fits or fit him to be a customs agent.

**Eligibility to be nominee**

“183cd. (1) A customs agent is eligible to be the nominee of a corporate customs agent if, and only if—

(a) where the corporate customs agent is a company—he is a director or employee of the company;

(b) where the corporate customs agent is a partnership—he is a member or employee of the partnership;

(c) he is not the nominee of another customs agent;

(d) he is not authorized to be an agent in accordance with sub-section (1) of section 181;

(e) he is a customs agent at a place at which the corporate customs agent is an agent; and

(f) subject to sub-section (2), he is not a customs agent at any other place.

“(2) A customs agent shall not be ineligible to be the nominee of a corporate customs agent by reason only of paragraph (f) of sub-section (1) if—

(a) all the places at which he is a customs agent are places at which the corporate customs agent is an agent; and

(b) the Comptroller is satisfied that the customs agent could attend to the duties of the nominee of the corporate customs agent at all those places in a satisfactory manner.

**Original endorsements on licence**

“183ce. (1) Where the Comptroller grants an agents licence, he shall—

(a) endorse on the licence the name of the place or places at which the holder of the licence may act as a customs agent; and

(b) where the licence is granted to a corporate customs agent—endorse on the licence the name of each customs agent who is a nominee of the corporate customs agent and opposite to each such name the name of the place or places at which he acts as a customs agent.

“(2) The Comptroller shall not, in pursuance of sub-section (1), endorse a licence so as to show a person as a nominee of that corporate customs agent if—

(a) that person is not a customs agent;

(b) that person is the nominee of another corporate customs agent; or

(c) that person acts as a customs agent in his own right.

“(3) The Comptroller shall not, in pursuance of sub-section (1),endorse on a licence so as to show a person as the nominee of that corporate customs agent at more than one place unless the Comptroller is satisfied that that person will be able to attend satisfactorily to his duties as nominee at each of those places.

**Variation of licences**

“183cf. (1) Subject to sub-section (3), the Comptroller may, upon application in writing by a customs agent and the production of his agents licence, vary the endorsements on the licence so that a place is specified, or ceases to be specified, in the licence as a place at which the holder of the licence may act as a customs agent.

“(2) Subject to sub-section (3), the Comptroller may, upon application in writing by a corporate customs agent and the production of its agents licence, vary the endorsements on the licence so that a person is specified, or ceases to be specified, in the licence as a nominee of the corporate customs agent.

“(3) The Comptroller shall not vary the endorsements on a licence so that the licence ceases to comply with sub-section (2) of section 183c.

“(4) A person shall not be endorsed under sub-section (2) as a nominee of a corporate customs agent unless he has consented, in writing, to the endorsement.

**Licence granted subject to conditions**

“183cg. (1) An agents licence is subject to the condition that if—

(a) the holder of the licence is convicted of a prescribed offence;

(b) in the case of a licence held by a natural person—the holder of the licence becomes bankrupt; or

(c) in the case of a licence held by a company—the holder of the licence goes into liquidation,

the holder of the licence shall, within 30 days after the occurrence of the conviction, bankruptcy or liquidation, as the case requires, give the Comptroller particulars in writing of the conviction, bankruptcy or liquidation, as the case requires.

“(2) An agents licence held by a natural person is subject to the condition that the holder of the licence shall not act as a customs agent in his own right at any time at which he is a nominee of a corporate customs agent.

“(3) An agents licence held by a corporate customs agent is subject to the condition that if—

(a) a person not described in the application for the licence as participating in the work of the corporate customs agent commences so to participate;

(b) a nominee of the corporate customs agent dies or ceases to act as nominee of the corporate customs agent;

(c) a person who participates in the work of the corporate customs agent is convicted of a prescribed offence or becomes bankrupt; or

(d) in the case of a licence held by a partnership—

(i) a member of the partnership is convicted of a prescribed offence or becomes bankrupt; or

(ii) there is a change in the membership of the partnership,

the holder of the licence shall, within 30 days after the occurrence of the event, change, conviction or bankruptcy, as the case requires, give the Comptroller particulars in writing of that event, change, conviction or bankruptcy, as the case requires.

“(4) An agents licence held by a corporate customs agent is subject to the condition that the agent shall do all things necessary to ensure that—

(a) all persons who participate in the work of the corporate customs agent are persons of integrity; and

(b) in the case of a licence held by a partnership—all members of the partnership are persons of integrity.

“(5) An agents licence is subject to such other conditions (if any) as are prescribed.

“(6) An agents licence is subject to such other conditions (if any) as are specified in the licence, being conditions considered by the Comptroller to be necessary or desirable for the protection of the revenue.

“(7) The Comptroller may, upon application in writing by a customs agent and the production of the licence held by the customs agent, vary the conditions specified in the licence by making an alteration to, or an endorsement on, the licence.

“(8) Where a customs agent fails to comply with a condition of his licence the Comptroller may, by notice in writing served on him, require him to comply with that condition within the time specified in the notice.

**Duration of licence**

“183ch. (1) An agents licence—

(a) comes into force on a date specified in the licence or, if no date is so specified, the date on which it is granted; and

(b) subject to this Part, remains in force until 31 December next following the grant of the licence but may be renewed in accordance with section 183cj.

“(2) A licence granted to a natural person ceases to have effect on the death of that person.

**Renewal of licence**

“183cj. (1) Where a customs agent, within one month before the date on which his agents licence is due to expire, applies in writing to the Comptroller for the renewal of the licence, the Comptroller, unless the Minister has given an order under paragraph (d) of sub-section (1) of section 183cs in relation to the licence or the customs agent is, by virtue of section 183ck, not entitled to hold an agents licence, shall, by writing, renew the licence.

“(2) A renewal of a licence shall not take effect if, on or before the date on which the licence would, apart from the renewal, expire, the licence is revoked.

“(3) Where the licence held by a customs agent has been suspended, sub-section (1) applies as if the licence had not been suspended, but the renewal of the licence does not have any force or effect until the licence ceases to be suspended.

“(4) Where the Comptroller renews a licence under sub-section (1), he may, in accordance with sub-section (6) of section 183cg, specify conditions different from those specified in the original licence.

“(5) Subject to this Part, a licence that has been renewed continues in force for 12 months after the renewal but may be further renewed.

**Security**

“183ck. (1) The Comptroller may, by notice in writing served on a person making an application for an agents licence or a person who holds an agents licence, require that person to give, within the time specified in the notice, security in an amount determined by the Comptroller, not being an amount exceeding the amount prescribed in respect of the prescribed class of applicants or customs agents to which the person belongs, by bond, guarantee or cash deposit, or by any or all of those methods, for compliance by him with the Customs Acts, for compliance with the conditions or requirements to which the importation or exportation of goods is subject and generally for the protection of the revenue and that person is not entitled to be granted or to hold an agents licence, as the case may be, unless he gives security accordingly.

“(2) Where the amount of the security in force in respect of a customs agent is less than the amount prescribed in respect of the prescribed class of customs agents to which the customs agent belongs, the Comptroller may, by notice in writing to the customs agent, require the customs agent to give, within such period as is specified in the notice, a fresh security in lieu of the security in force under sub-section (1) in an amount specified in the notice, being an amount not exceeding the amount so prescribed, and, if the customs agent fails to comply with the notice, the customs agent shall not be entitled to hold an agents licence.

“(3) Where, by virtue of sub-section (1), an applicant for an agents licence is not entitled to be granted the licence, the Comptroller may refuse to grant the licence to the applicant.

“(4) Where, by virtue of sub-section (1) or (2), a customs agent is not entitled to hold an agents licence, the Comptroller may cancel the agents licence held by the customs agent.

“(5) Regulations made for the purposes of this section may prescribe different amounts in respect of different classes of applicants or customs agents and, without limiting the generality of the foregoing, may prescribe different amounts in respect of applicants who are natural persons and applicants that are partnerships or companies and in respect of customs agents who are natural persons and corporate customs agents.

**Fees**

“183cl. (1) Such fees (if any) as are prescribed are payable in respect of agents licences.

“(2) Regulations made for the purposes of this section may prescribe—

(a) different fees in respect of different classes of customs agents and, without limiting the generality of the foregoing, may prescribe different fees in respect of customs agents who are natural persons and corporate customs agents; and

(b) the time within which fees payable under this section are to be paid.

“(3) Fees prescribed under sub-section (1) may include an amount calculated with regard to the cost of the establishment, administration and operation of the Committee.

**Nominees**

“183cm. For the purposes of this Part, a person shall be taken to be a nominee of a corporate customs agent from the time when the name of the nominee is endorsed, in pursuance of paragraph (b) of sub-section (1) of section 183ce or of section 183cf, on the licence of the corporate customs agent until the nominee dies or until the Comptroller deletes the name of the nominee from that licence under section 183cp, whichever occurs first.

**Removal of nominee**

“183cn. (1) The Comptroller shall delete the name of a nominee of a corporate customs agent from the agents licence of that corporate customs agent if—

(a) the nominee dies;

(b) the nominee ceases to hold an agents licence;

(c) the nominee ceases to act as nominee of the corporate customs agent;

(d) the nominee requests the Comptroller, in writing, to delete his name from the licence; or

(e) the name of the nominee is found to have been endorsed on the licence in circumstances where the endorsement should not have been made.

“(2) Where the deletion of the name of a nominee from a licence of a corporate customs agent is required under sub-section (1), the corporate customs agent shall forthwith deliver the licence to the Comptroller for the purpose of having the deletion effected.

**Notice to nominate new nominee**

“183cp. If the agents licence of a corporate customs agent ceases to comply with sub-section (2) of section 183c, the Comptroller may, by notice in writing served on the corporate customs agent, require the corporate customs agent to apply within such period as is specified in the notice, for such variation of the endorsements on the licence as would result in the licence complying with that sub-section.

***“Division 4*—*Suspension, revocation and non-renewal of licences***

**Investigation of matters relating to an agents licence**

“183cq. (1) The Comptroller may give notice in accordance with this section to a customs agent if he has reasonable grounds to believe that—

(a) the customs agent has been convicted of a prescribed offence;

(b) the customs agent, being a natural person, is an undischarged bankrupt;

(c) the customs agent, being a company, is in liquidation;

(d) the customs agent has ceased to perform the duties of a customs agent in a satisfactory and responsible manner;

(e) the customs agent is guilty of conduct that is an abuse of the rights and privileges arising from his licence;

(f) the customs agent has not, within 28 days after the day prescribed for the payment of any fees, paid those fees;

(g) the customs agent made a false or misleading statement in the application for the licence;

(h) the customs agent has not complied with a condition imposed on the grant or renewal of the licence and, having been served with a notice under sub-section (8) of section 183cg in relation to the non-compliance with that condition, the customs agent has not, within the time specified in the notice, complied with that condition; or

(j) in the case of a corporate customs agent—the customs agent has not, within the time specified in a notice under section 183cp, complied with that notice,

or it otherwise appears to him to be necessary for the protection of the revenue or otherwise in the public interest to give the notice.

“(2)Without limiting the generality of paragraph (d) of sub-section (1), a customs agent shall be taken, for the purposes of that paragraph, to have ceased to perform the duties of a customs agent in a satisfactory and responsible manner if the documents prepared by the customs agent for the purposes of this Act contain errors that are unreasonable having regard to the nature or frequency of those errors.

“(3) Notice in accordance with this section to a customs agent shall be in writing and shall be served, either personally or by post, on the customs agent.

“(4) A notice in accordance with this section to a customs agent shall state—

(a) the grounds on which the notice is given;

(b) that the Comptroller intends forthwith to refer to the Committee, for investigation and report to the Minister, the question whether the Minister should take action in relation to the licence under sub-section (1) of section 183cs;

(c) the powers that the Minister may exercise in relation to a licence under sub-section (1) of section 183cs; and

(d) the rights of the customs agent under sections 183j and 183s to take part in the proceedings before the Committee.

“(5) Where the Comptroller gives notice in accordance with this section to a customs agent, he shall refer the question whether the Minister should take action in relation to the licence under sub-section (1) of section 183cs to the Committee, for investigation and report to the Minister.

“(6) Where the Comptroller refers a question to the Committee under sub-section (5), he shall give particulars to the Committee of all the information in his possession that is relevant to the question so referred.

“(7) Where a question is referred to the Committee under sub-section (5), the Committee shall, as soon as practicable, conduct an investigation into the question and make a report on the question to the Minister.

**Interim suspension by Comptroller**

“183cr. (1) Where the Comptroller gives notice in accordance with section 183cq to a customs agent, he may, if he considers it necessary for the protection of the revenue or otherwise in the public interest to do so, suspend the licence of the customs agent pending the investigation and report of the Committee.

“(2) The Comptroller may suspend the agents licence of a customs agent in pursuance of sub-section (1) by—

(a) including in the notice to the customs agent in accordance with section 183cq a statement to the effect that the licence is suspended under that sub-section; or

(b) giving further notice in writing to the customs agent to the effect that the licence is suspended under that sub-section,

such notice to include also a statement that any person whose interests are affected by the suspension may make an application to the Administrative Appeals Tribunal for a review of the decision to suspend the licence.

“(3) A suspension of a licence by the Comptroller under sub-section (1) has effect until the suspension is revoked by the Comptroller or the Minister has dealt with the matter in accordance with section 183cs, whichever first occurs.

“(4) Where an agents licence is suspended under this section, the Comptroller may at any time revoke the suspension.

**Powers of Minister**

“183cs. (1) Where the Minister, after considering a report under sub-section (7) of section 183cq in relation to an agents licence, is—

(a) satisfied in relation to the licence as to any of the matters mentioned in paragraphs (a) to (j) (inclusive) of sub-section (1) of section 183cq; or

(b) satisfied on any other grounds that it is necessary to do so for the protection of the revenue,

he may, by notice to the customs agent—

(c) cancel the licence;

(d) if the licence is about to expire—order that the licence not be renewed;

(e) reprimand the customs agent;

(f) in a case where the licence is not already suspended—suspend the licence for a period specified in the notice; or

(g) in a case where the licence is already suspended—further suspend the licence for a period specified in the notice.

“(2) Where the Minister, after considering a report under sub-section (7) of section 183cq in relation to an agents licence, decides not to take any further action in the matter, he shall, by notice in writing to the customs agent, inform the customs agent accordingly, and, if the licence of the customs agent is suspended, he shall revoke the suspension.

“(3) A notice under sub-section (1) shall—

(a) be in writing;

(b) be served, either personally or by post, on the holder of the licence;

(c) shall set out the ground or grounds for the decision of the Minister; and

(d) state that any person whose interests are affected by the decision of the Minister may make an application to the Administrative Appeals Tribunal for a review of that decision.

“(4) The period for which the Minister may suspend or further suspend a licence under sub-section (1) may be a period expiring after the date on which the licence, if not renewed, would expire.

“(5) Where the Minister orders under paragraph (d) of sub-section (1) that a licence not be renewed, he shall notify the appropriate Collector accordingly.

**Effect of Suspension**

“183ct. (1) During a period in which an agents licence held by a natural person is suspended under this Division, the person shall not—

(a) act as a customs agent; or

(b) act as a nominee of a corporate customs agent.

“(2) During a period in which an agents licence held by a corporate customs agent is suspended under this Division—

(a) the corporate customs agent shall not act as a customs agent; and

(b) a nominee of the corporate customs agent shall not act as such a nominee.

**Service of notices**

“183cu. For the purposes of the application of section 29 of the *Acts Interpretation Act* 1901 to the service by post of a notice under this Division on a person who holds or held an agents licence, such a notice posted as a letter addressed to that person at the last address of that person known to the sender shall be deemed to be properly addressed.”.

**(2)** All places that, immediately before the commencement of this section, were places to which the limitation expressed in section 180 of the Principal Act extended by virtue of a proclamation under that section shall be deemed to be places to which sub-section 181(2) of the Principal Act, as amended by this Act, applies.

**(3)** A licence granted under section 183a of the Principal Act as in force immediately before the commencement of this section that was in force immediately before the commencement of this section is deemed to be a licence granted under section 183c of the Principal Act as amended by this Act.

**Heading to Division 4 of Part XI**

**12.** The heading to Division 4 of Part XI of the Principal Act is omitted and the following heading substituted:

***“Division* 5—*National Customs Agents Licensing Advisory Committee”.***

13. Section 183d of the Principal Act is repealed and the following sections substituted:

**National Customs Agents Licensing Advisory Committee**

“183d. (1) There is established by this section a Committee by the name of the National Customs Agents Licensing Advisory Committee.

“(2) The functions of the Committee are—

(a) to investigate and report on applications referred to it by the Comptroller under section 183cb;

(b) to investigate and report on questions referred to it by the Comptroller under section 183cq;

(c) to advise the Minister in relation to the approval of courses of study under section 183cc; and

(d) where the Minister requests the Committee to advise him on the standards that customs agents should meet in the performance of their duties and obligations as customs agents—to advise the Minister accordingly.

**Constitution of Committee**

“183da. (1) The Committee shall consist of the following members:

(a) the Chairman;

(b) a member to represent customs agents;

(c) a member to represent the Commonwealth.

“(2) The Chairman shall be a person who—

(a) is or has been a Stipendiary, Police, Special or Resident Magistrate of a State or Territory; or

(b) in the opinion of the Minister, possesses special knowledge or skill in relation to matters that the Committee is to advise or report on.

“(3) A member referred to in paragraph (a) or (b) of sub-section (1) shall be appointed by the Minister for a period not exceeding 2 years but is eligible for re-appointment.

“(4) The member referred to in paragraph (b) of sub-section (1) shall be appointed on the nomination of an organization that, in the opinion of the Minister, represents customs agents.

“(5) The member referred to in paragraph (c) of sub-section (1) shall be the person for the time being holding, or performing the duties of, the office in the Department of Business and Consumer Affairs that the Minister specifies, in writing signed by him, to be the office for the purposes of this sub-section.

“(6) The appointment of a member is not invalidated, and shall not be called in question, by reason of a deficiency or irregularity in, or in connection with, his nomination or appointment.

**Remuneration and allowances**

“183db. (1) A member referred to in paragraph (a) or (b) of sub-section (1) of section 183da shall be paid such remuneration as is determined by the Remuneration Tribunal, but if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed.

“(2) A member referred to in paragraph (a) or (b) of sub-section (1) of section 183da shall be paid such allowances as are prescribed.

“(3) This section has effect subject to the *Remuneration Tribunals Act* 1973.

**Acting Chairman**

“183dc. (1) Subject to sub-section (2), the Minister may appoint a person to act as Chairman—

(a) during a vacancy in the office of Chairman; or

(b) during any period, or during all periods, when the Chairman is absent from duty or from Australia or is for any other reason, unable to perform the functions of his office.

“(2) A person shall not be appointed to act as Chairman unless he is qualified, in accordance with sub-section (2) of section 183da, to be appointed as Chairman.

“(3) A person appointed to act as Chairman shall be paid such fees, allowances and expenses as the Minister determines.

**Deputy member**

“183dd. (1) The Minister may appoint a person, on the nomination of an organization referred to in sub-section (4) of section 183da, to be the deputy of the member referred to in paragraph (b) of sub-section (1) of that section during the pleasure of the Minister and the person so appointed shall, in the event of the absence of the member from a meeting of the Committee, be entitled to attend that meeting and, when so attending, shall be deemed to be a member of the Committee.

“(2) Where the Minister specifies an office in the Department of Business and Consumer Affairs for the purposes of this sub-section, the person for the time being holding, or performing the duties of, that office shall be the deputy of the member referred to in paragraph (c) of sub-section (1) of section 183da and that person shall, in the event of the absence of that member from a meeting of the Committee, be entitled to attend that meeting and, when so attending, shall be deemed to be a member of the Committee.

“(3) A deputy of the member referred to in paragraph (b) of sub-section (1) of section 183da shall be paid such fees, allowances and expenses as the Minister determines.”.

**Customs agent affected by investigations to be given notice**

**14.** Section 183j of the Principal Act is amended—

(a) by omitting from sub-section (1) “The Chairman of a Committee” and substituting “Where an application is referred to the Committee under section 183cb or a question is referred to the Committee under section 183cq, the Chairman of the Committee”;

(b) by omitting from sub-section (1) “the matter referred to the Committee” and substituting “the reference of the application or question to the Committee”;

(c) by omitting from sub-section (1) “the matter” (second occurring) and substituting “the application or question”;

(d) by omitting from sub-section (1) “the customs agent concerned in the matter” and substituting “the person making the application or holding the licence to which the question relates, as the case may be,”;

(e) by omitting from sub-sections (2) and (3) “the customs agent” (wherever occurring) and substituting “the person”; and

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

“(4) Where an application is referred to the Committee under section 183cb or a question is referred to the Committee under section 183cq, the Chairman of the Committee may cause a notice in writing of the reference of the application or question to the Committee, and of the time and place at which the Committee intends to hold an inquiry into the application or question, to be served on such other persons who, in the opinion of the Chairman, have a special interest in, or are specially affected by, the inquiry.”.

**Arrest of witness failing to appear**

**15.** Section 183m of the Principal Act is repealed.

**Offences by witness**

**16.** Section 183p of the Principal Act is amended by omitting “Two Hundred dollars or imprisonment for six months” and substituting “$1,000”.

**17.** Section 183q of the Principal Act is repealed and the following section substituted:

**Statements by witness**

“183q. A person is not excused from answering a question or producing a book or document when required to do so under section 183p on the ground that the answer to the question, or the production of the book or document, might tend to incriminate him or make him liable to a penalty, but his answer to any such question is not admissible in evidence against him in proceedings other than proceedings for—

(a) an offence against paragraph (b) or (c) of section 183p; or

(b) an offence in connection with the making by him of a statement in an examination before the Committee under section 183n.”.

**Securing goods**

**18.** Section 190 of the Principal Act is amended by omitting “, or otherwise securing any goods or the removal of any goods to the King’s warehouse” and substituting “or otherwise securing any goods”.

**19.** Section 195 of the Principal Act is repealed and the following section substituted:

**Power to question passengers, &c.**

“195. (1) An officer of Customs may question—

(a) any person who is on board a ship or an aircraft;

(b) any person who has, or who the officer has reason to believe has, got off a ship or out of an aircraft; or

(c) any person who the officer has reason to believe is about to board a ship or an aircraft,

as to whether that person or any child or other person accompanying him has on his person, in his baggage or otherwise with him any—

(d) dutiable goods;

(e) excisable goods;

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

(g) goods the importation or exportation of which is subject to restrictions, or to compliance with any conditions, under this Act or any other law of the Commonwealth.

“(2) A person shall answer questions put to him in pursuance of sub-section (1).

Penalty: $1,000.”.

**20.** Section 204 of the Principal Act is repealed and the following section substituted:

**Seized goods to be secured**

“204. (1) Where an officer of Customs seizes any goods under this Act, he shall take those goods to such place of security as a Collector directs.

“(2) Subject to sub-section (3), where a person other than an officer of Customs seizes any goods under this Act, he shall forthwith deliver the goods to an officer of Customs at the nearest Customs House or other convenient place.

“(3) Sub-section (2) does not apply in relation to narcotic goods seized under this Act by a member of the Australian Federal Police.

“(4) Where goods are delivered to an officer of Customs in accordance with sub-section (2), the officer shall—

(a) except where paragraph (b) applies—deliver the goods to such place of security as a Collector directs; or

(b) where the goods are delivered to him at a place that a Collector directs is to be the place of security at which the goods are to be kept, leave the goods at that place.”.

**Collector may retain goods and require owner to proceed for restoration**

**21.** Section 207 of the Principal Act is amended by omitting “any goods have” and substituting “any ship, boat, aircraft or goods has or have”.

**22.** Section 209 of the Principal Act is repealed and the following section substituted:

**Power to impound certain forfeited goods and release them on payment of duty and penalty**

“209. (1) This section applies to dutiable goods that are forfeited by virtue of paragraph (a), (g), (i), (o), (p) or (q) of sub-section (1) of section 229 (including forfeited by virtue of the operation of any of those paragraphs and section 230), other than goods that are prohibited imports.

“(2) Subject to sub-section (3), where an officer finds goods that are, or that he has reason to believe are, goods to which this section applies in the course of a search of the baggage of a person who has arrived in Australia from a place outside Australia, the officer may, in lieu of seizing the goods under section 203, impound the goods.

“(3) An officer shall not exercise his powers under sub-section (2) to impound goods found in the course of a search if, in the opinion of the officer, the total of the amounts of duty sought to be evaded in respect of goods to which this section applies found in the course of that search exceeds $500.

“(4) Goods impounded under this section shall be taken to such place of security as the Collector directs.

“(5) Where an officer impounds goods under this section, he shall as soon as is practicable, but not later than 7 days after the day on which the goods were impounded, serve on the owner of the goods, either personally or by post, a notice in writing—

(a) identifying—

(i) where the goods are an article, the article;

(ii) where the goods consist of separate articles, each of those articles; or

(iii) in any other case, the goods,

and stating that the article, articles or goods so identified have been impounded under this section;

(b) setting out the amount of duty demanded in respect of the article, each of the articles, or the goods, identified in the notice;

(c) setting out the date on which the goods were impounded;

(d) setting out the terms of, or adequate particulars of the provisions of, sub-sections (6) and (7); and

(e) specifying the address at which payment under sub-section (6) may be made in respect of the goods.

“(6) Where the owner of an article or goods identified in a notice served under sub-section (5) pays to the Collector, at the address for payment shown in the notice and within 21 days after the day on which the notice was served, the duty demanded in respect of the article or goods (not being a payment under protest in accordance with section 167) together with an amount of penalty equal to the amount of that duty—

(a) the Collector shall authorize the delivery of the article or goods to the owner;

(b) the article or goods cease to be forfeited; and

(c) proceedings shall not be brought for any offence against this Act in relation to the importation of the article or goods.

“(7) Where the owner of an article or goods identified in a notice served under sub-section (5) does not pay duty and penalty in respect of the article or goods in accordance with sub-section (6), the article or goods shall be deemed to have been seized under section 203 on the expiration of the last day of the period during which that duty and penalty were required to be paid and to have been so seized by the officer who served the notice.

“(8) Section 240 does not apply in relation to a penalty under this section.

“(9) Neither the Commonwealth nor an officer or other person is under any liability in relation to the impounding of any goods under this section for which there was reasonable cause.

“(10) For the purpose of the application of section 29 of the *Acts Interpretation Act* 1901 to the service by post on the owner of goods of a notice under sub-section (5), such a notice posted as a letter addressed to the owner at his last address known to the officer required to serve the notice shall be deemed to be properly addressed.

“(11) A reference in this section to the baggage of a person who has arrived in Australia shall be read as including a reference to goods on his person or otherwise with him.

“(12) A reference in this section to a search of the baggage of a person shall be read as including a reference to a search of such part of the baggage of a person as is available for search at a particular time.”.

**Forfeited goods**

**23.** **(1)** Section 229 of the Principal Act is amended by adding at the end thereof the following sub-section:

“(2) Notwithstanding section 228, this section applies in relation to ships, boats and aircraft as well as other goods.”.

**(2)** Nothing in sub-section 229(2) of the Principal Act as amended by this Act shall be taken as implying that, before the commencement of that sub-section, section 229 of the Principal Act did not apply in relation to ships, boats and aircraft.

**Proceeds of drug trafficking liable to forfeiture**

**24.** Section 229a of the Principal Act is amended by omitting from sub-section (6) “209” and substituting “208”.

**25.** After section 234 of the Principal Act the following section is inserted:

**Places set aside for purposes of Act**

“234aa. Where a place is to be used by officers—

(a) for questioning, for the purposes of this Act or of any other law of the Commonwealth, passengers disembarking from or embarking on a ship or aircraft;

(b) for examining, for such purposes, the personal baggage of such passengers; or

(c) as a holding place for such passengers,

a Collector, or a person authorized by a Collector to do so, may cause signs to be displayed at or near the place that identify the place and state that entry into it by unauthorized persons is prohibited by this Act.”.

**Unauthorized entry to places and on ships, aircraft or wharves**

**26.** Section 234a of the Principal Act is amended—

(a) by inserting in sub-section (1) “, other than a passenger disembarking from, or embarking on, a ship or aircraft,” after “person”;

(b) by omitting paragraph (a) of sub-section (1) and substituting the following paragraph:

“(a) enter into, or be in, a place in relation to which a sign is displayed under section 234aa; or”; and

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

“(3) In any proceedings for the prosecution of a person for an offence against sub-section (1), evidence that a sign stating that entry into a place is prohibited by this Act was displayed at or near that place is *prima facie* evidence that the sign was so displayed in accordance with section 234aa.”.

**Repeal**

**27.** Part XV of the Principal Act is repealed.

**28. (1)** Before section 274 of the Principal Act the following sections are inserted in Part XVII:

**Review of decisions**

“273ga. (1) Subject to this section, applications may be made to the Administrative Appeals Tribunal for review of—

(a) a demand made by a Collector under section 35a;

(b) a decision of the Comptroller or a Collector for the purposes of Part V;

(c) a decision by the Minister under section 119 not to grant a Certificate of Clearance;

(d) a refusal by a Collector under section 126;

(e) quota orders, and variations of quota orders, made by the Minister under sections 132b and 132c;

(f) a direction of the Minister under paragraph (a) of sub-section (8) of section 151;

(g) a decision of the Collector under section 151a;

(h) a specification of the Minister under sub-section (4) of section 157; (j) a direction by the Minister under section 164b; and

(k) a decision of the Minister, the Comptroller, or a Collector for the purposes of Part XI.

“(2) Where a dispute referred to in sub-section (1) of section 167 has arisen and the owner of the goods has, in accordance with that sub-section, paid under protest the sum demanded by the Collector, an application may be made to the Tribunal for review of the demand made by the Collector for that sum.

“(3) Sub-section (3) of section 119 does not apply where a Certificate of Clearance is granted to the ship or aircraft referred to in that sub-section as a result of a review by the Tribunal.

“(4) A person is not entitled to apply for a review under section 132e of a quota order, or a variation of a quota order, if an application may be made to the Tribunal under paragraph (e) of sub-section (1) in respect of the quota order or the variation, as the case may be.

“(5) An application may not be made to the Tribunal under sub-section (2) unless the application is made within the time specified in paragraph (a) or (b) of sub-section (4) of section 167, whichever is appropriate.

“(6) Where the owner of goods has made an application to the Tribunal under sub-section (2), he is not entitled to bring an action under sub-section (2) of section 167.

“(7) Where, on an application made under sub-section (2), the Tribunal has made a decision reviewing a demand made by the Collector, the proper duty payable in respect of the goods concerned shall be deemed to be—

(a) the sum determined to be the proper duty by, or ascertained to be the proper duty in accordance with—

(i) the decision of the Tribunal; or

(ii) an order of a court on appeal from that decision; or

(b) the sum paid under protest,

whichever is the less.

“(8) In this section, ‘decision’ has the same meaning as in the *Administrative Appeals Tribunal Act* 1975.

**Review of decisions under Customs Tariff Act**

“273h. Applications may be made to the Administrative Appeals Tribunal for review of—

(a) a direction given by the Minister under section 7 of the *Customs Tariff Act* 1966; and

(b) determinations made by the Minister under sections 8 and 31 of the *Customs Tariff Act* 1966.”.

**(2)** The Schedule to the *Administrative Appeals Tribunal Act* 1975 is amended by omitting Parts XII and XIV.

**(3)** Notwithstanding the amendments made by sub-section (2), applications may be made in accordance with the provisions omitted by that sub-section in respect of decisions made before the commencement of that sub-section.

**Commissioned ships and aircraft may be searched**

**29.** Section 275 of the Principal Act is amended by omitting “bring any such goods ashore and place them in a King’s warehouse” and substituting “secure any such goods and for that purpose bring them ashore”.

**Schedules**

**30.** **(1)** Schedule III to the Principal Act is amended by omitting from the form contained in the Schedule “the nearest King’s warehouse or to such other place” and substituting “such place”.

**(2)** Schedule IV to the Principal Act is amended by omitting from the form contained in the Schedule “the King’s warehouse, or such other place” and substituting “such place”.

**Additional amendments**

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

**Saving of regulations**

**32.** Notwithstanding the amendments made by this Act, regulations that were in force for the purposes of section 28, 80, 87 or 89 of the Principal Act immediately before the commencement of this section continue in force and shall be deemed to be as valid and effectual as they would be if made for the purposes of section 28, 85, 92 or 98, as the case may be, of the Principal Act as amended by this Act, but may be repealed or amended by regulations made under the Principal Act as amended by this Act or by any other Act.

**———————**

**SCHEDULE** Section 31

ADDITIONAL AMENDMENTS OF PRINCIPAL ACT

1. The following provisions of the Principal Act are amended by omitting “a Committee” (wherever occurring) and substituting “the Committee”:

Sections 183g, 183h, 183k, 183p, 183r, 183s, 183t and 183u.

2. The following provisions of the Principal Act are amended by omitting “A Committee” and substituting “The Committee”:

Sections 183f, 183k and 183n.

3. The Principal Act is further amended as set out in the following table:

|  |  |
| --- | --- |
| Provision | Amendment |
| Section 183e  | Omit “Committees”, substitute “the Committee”. |
| Sub-section 183j(2)  | (a) omit “the next succeeding sub-section”, substitute “sub-section (3)”. |
|  | (b) omit “the last preceding sub-section”, substitute “sub-section (1)”. |