



Customs and Excise Legislation Amendment Act 1986

No. 34 of 1986

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Customs and Excise Legislation Amendment Act 1986

No. 34 of 1986

An Act to amend the *Customs Act 1901*, the *Excise Act 1901* and certain other Acts

[Assented to 3 June 1986]

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

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Customs and Excise Legislation Amendment Act 1986*.

Commencement

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

(2) Sub-section 8 (2) and sections 10, 13, 14 and 15 shall come into operation on the commencement of the *Protection of Movable Cultural Heritage Act 1986*.

(3) Sections 16, 17 and 18 shall come into operation on 1 July 1986.

(4) Sections 20 and 21 shall be deemed to have come into operation on the commencement of section 47 of the *Customs and Excise Legislation Amendment Act 1985*.

(5) Section 23 shall come into operation, or shall be deemed to have come into operation, as the case requires, on the commencement of section 36 of the *Customs and Excise Legislation Amendment Act 1985*.

PART II—AMENDMENTS OF THE COAL EXCISE ACT 1949

Principal Act

3. The *Coal Excise Act 1949*¹ is in this Part referred to as the Principal Act.

Removal of coal

4. Section 24 of the Principal Act is amended by omitting sub-section (3).

5. After section 24A of the Principal Act the following section is inserted:

Ascertaining quantities of coal

“24AA. (1) For the purposes of this Act (including ascertaining any excise duty to which this Act applies), where—

- (a) coal is sold by its producer; and
 - (b) an invoice document provided by the producer to the purchaser shows a quantity as being the quantity of the coal so sold,
- the quantity of that coal shall be taken to be that quantity shown.

“(2) For the purposes of this Act (including ascertaining any excise duty to which this Act applies), where—

- (a) coal (in this sub-section referred to as the ‘relevant coal’) is sold by its producer to a person;
 - (b) coal (in this sub-section referred to as the ‘acquired coal’) not produced by that producer is sold by that producer to that person; and
 - (c) an invoice document provided by that producer to that person shows a quantity as being the quantity of the relevant coal and the acquired coal,
- the quantity of the relevant coal shall be taken to be that quantity shown less the part of that quantity that a Collector is satisfied is the quantity of the acquired coal.

“(3) In this section, ‘invoice document’ means an invoice or, if another document is approved for the purposes of this paragraph by a Collector, that other document.”.

Repeal of section 24B

6. Section 24B of the Principal Act is repealed.

PART III—AMENDMENTS OF THE CUSTOMS ACT 1901

Principal Act

7. The *Customs Act 1901*² is in this Part referred to as the Principal Act.

Interpretation

8. (1) Section 4 of the Principal Act is amended by omitting “the Collector” from the definition of “Answer questions” in sub-section (1) and substituting “an officer of Customs”.

(2) Section 4 of the Principal Act is amended by inserting after the definition of “Produce documents” in sub-section (1) the following definition:

“‘Protected object’ means an object in respect of which a notice under section 203A is in force;”.

Collectors of Customs

9. Section 8 of the Principal Act is amended by omitting from paragraph (1) (a) “a Collector” and substituting “the Collector, or to a Collector,”.

Customs control of goods

10. Section 30 of the Principal Act is amended by inserting in paragraph (d) “being protected objects, or being goods” before “the exportation”.

Delivery of goods upon giving of security or undertaking for payment of duty

11. Section 162 of the Principal Act is amended by inserting after sub-section (2) the following sub-section:

“(2A) Without limiting the generality of sub-section (2), regulations under that sub-section may provide that conditions, restrictions or requirements specified in the permission granted under sub-section (1) in relation to goods are to be complied with in relation to the goods.”.

Delivery of goods on the giving of a general security or undertaking for payment of duty

12. Section 162A of the Principal Act is amended by inserting after sub-section (1) the following sub-sections:

“(1A) Without limiting the generality of sub-section (1), regulations under that sub-section may be regulations that apply to goods if—

- (a) the goods are specified in an instrument authorised by the regulations; and
- (b) conditions, restrictions or requirements specified in that instrument are complied with in respect of the goods.

“(1B) Without limiting the generality of paragraph (1A) (b), conditions, restrictions or requirements referred to in that paragraph that apply to goods may specify, or relate to—

- (a) the time during which the goods may remain in Australia; or
- (b) the purposes for which the goods may be used, while they are in Australia.”.

13. After section 203 of the Principal Act the following section is inserted:

Seizure of protected objects

“203A. (1) In this section—

‘inspector’ has the same meaning as in the Act;

‘Minister’ means the Minister administering the Act;

‘the Act’ means the *Protection of Movable Cultural Heritage Act 1986*.

“(2) Where—

- (a) the Minister is of the opinion that a particular object may become forfeited by virtue of section 9 of the Act; or
- (b) a foreign country has requested the return of a particular object exported from that country and the Minister is of the opinion that the object may become liable to forfeiture by virtue of section 14 of the Act,

the Minister may issue a notice in writing to the Comptroller to that effect.

“(3) An officer may seize a protected object or any object that the officer believes on reasonable grounds is a protected object, being an object that is subject to the control of the Customs.

“(4) Where an officer seizes an object under sub-section (3), the officer shall forthwith deliver the object into the custody of an inspector.”.

Seized goods to be secured

14. Section 204 of the Principal Act is amended by omitting from sub-sections (2), (3) and (4) “this Act” and substituting “section 203”.

Forfeited goods

15. Section 229 of the Principal Act is amended by inserting in paragraph (1) (a) “(not being objects forfeited, or liable to forfeiture, under the *Protection of Movable Cultural Heritage Act 1986*)” after “goods”.

Interpretation

16. Section 269B of the Principal Act is amended—

- (a) by adding at the end of sub-section (1) the following definition:

“‘repair’, in relation to goods, includes renovate.”; and

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

“(8) For the purposes of this Part, a person shall be taken to be capable of repairing particular goods in the normal course of business

if, in the normal course of business, the person is prepared to accept orders to repair those goods.”.

Commercial Tariff Concession Orders

17. Section 269C of the Principal Act is amended—

- (a) by omitting from sub-section (1) “, to be known as a Commercial Tariff Concession Order,”;
- (b) by inserting after sub-section (1) the following sub-sections:

“(1A) Subject to this Part, where the Comptroller, after considering an application under section 269G for the making of an order under this section in respect of particular goods, is satisfied that there is no person in Australia who is capable of repairing the particular goods in the normal course of business, the Comptroller shall make a written order declaring that the particular goods sent out of Australia in order to be repaired are goods to which a prescribed item specified in the order applies.

“(1B) Subject to this Part, where the Comptroller, after considering an application under section 269G for the making of an order under this section in respect of goods (in this sub-section referred to as the ‘relevant goods’) included in a particular class or kind of goods is satisfied that—

- (a) when the relevant goods are in a particular condition they would need to be repaired; and
- (b) when the relevant goods are in that condition there is no person in Australia who is capable of repairing the relevant goods in the normal course of business,

the Comptroller shall make a written order declaring that the relevant goods sent out of Australia when in that condition in order to be repaired are goods to which a prescribed item specified in the order applies.

“(1C) An order provided for by sub-section (1), (1A) or (1B) is to be known as a Commercial Tariff Concession Order.”;

- (c) by omitting from sub-section (2) “prescribed goods” and substituting “particular goods”; and
- (d) by omitting from sub-section (2) “particular item” and substituting “prescribed item”.

Comptroller may refuse to make certain concession orders

18. Section 269E of the Principal Act is amended—

- (a) by inserting in sub-section (1) “under sub-section 269C (1)” after “concession order”;
- (b) by inserting after sub-section (1) the following sub-section:

“(1A) The Comptroller may, in his or her discretion, refuse to make a concession order under sub-section 269C (1A) or (1B) in respect of particular goods if, in his or her opinion, the making of the order—

- (a) would be likely to have a substantially adverse effect on the market for any goods produced, for any work carried out, or for any services provided, in Australia; or
- (b) would not be in the national interest.”;
- (c) by inserting in sub-section (2) “or (1A) (b)” after “(1) (b)”; and
- (d) by inserting in sub-section (3) “or (1A) (b)” after “(1) (b)”.

PART IV—AMENDMENTS OF THE CUSTOMS AND EXCISE LEGISLATION AMENDMENT ACT 1985

Principal Act

19. The *Customs and Excise Legislation Amendment Act 1985*³ is in this Part referred to as the Principal Act.

Application

20. Section 48 of the Principal Act is amended by omitting “48” (second and third occurring) and substituting “47”.

Amendment of Schedule to Principal Act

21. Schedule 1 to the Principal Act is amended by omitting “\$700” from the paragraph amending sub-section 58A (3) of the *Excise Act 1901* and substituting “\$200”.

PART V—AMENDMENTS OF THE EXCISE ACT 1901

Principal Act

22. The *Excise Act 1901*⁴ is in this Part referred to as the Principal Act.

23. Section 58D of the Principal Act is repealed and the following section is substituted:

Entry of ship’s stores and aircraft’s stores

“58D. (1) Subject to sub-section (3), the owner of a ship shall not permit excisable goods to be taken on board the ship for use as ship’s stores unless the goods have been entered for use as ship’s stores and the entry has been passed.

Penalty: \$1,000.

“(2) Subject to sub-section (3), the owner of an aircraft shall not permit excisable goods to be taken on board the aircraft for use as aircraft’s stores unless the goods have been entered for use as aircraft’s stores and the entry has been passed.

Penalty: \$1,000.

“(3) Sub-sections (1) and (2) do not apply in relation to—

- (a) goods that, under the regulations, are exempt from this section; or
- (b) goods to which section 58C applies.

“(4) The regulations may require a person who takes, or proposes to take, goods referred to in paragraph (3) (a) on board a ship or aircraft for use as ship’s stores or aircraft’s stores, as the case may be, to give in writing to a Collector, in accordance with the regulations, such information in respect of the goods as is prescribed.

“(5) In this section, ‘aircraft’s stores’ and ‘ship’s stores’ have the same meanings respectively as they have in Part XIV.”.

Power to detain and search suspected persons

24. Section 104 of the Principal Act is amended—

- (a) by omitting all the words after “search” (last occurring); and
- (b) by adding at the end the following sub-section:

“(2) A person may be searched under sub-section (1) only by a person of the same sex as the first-mentioned person.”.

NOTES

1. No. 81, 1949, as amended. For previous amendments, see No. 19, 1961; No. 93, 1966; Nos. 18 and 76, 1968; No. 216, 1973; No. 37, 1976; No. 19, 1981; and Nos. 39 and 40, 1985.
2. No. 6, 1901, as amended. For previous amendments, see No. 21, 1906; Nos. 9 and 36, 1910; No. 9, 1914; No. 10, 1916; No. 41, 1920; 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; No. 54, 1967; Nos. 14 and 104, 1968; Nos. 12 and 134, 1971; No. 162, 1973; No. 216, 1973 (as amended by No. 20, 1974); Nos. 28 and 120, 1974; Nos. 56, 77 and 107, 1975; Nos. 41, 91 and 174, 1976; No. 154, 1977; Nos. 36 and 183, 1978; Nos. 92, 116, 177 and 180, 1979; Nos. 13, 15 and 110, 1980; Nos. 45, 64, 67, 152 and 157, 1981; Nos. 48, 51, 80, 108, 115 and 137, 1982; No. 81, 1982 (as amended by No. 39, 1983); Nos. 19, 39 and 101, 1983; Nos. 2, 22, 63, 72 and 165, 1984; and Nos. 39, 40 and 175, 1985.
3. No. 40, 1985.
4. No. 9, 1901, as amended. For previous amendments, see No. 26, 1918; No. 8, 1923; No. 44, 1934; No. 16, 1942; No. 88, 1947; No. 46, 1949; No. 55, 1952; No. 10, 1957; No. 49, 1958; No. 37, 1962; No. 49, 1963; No. 139, 1965; No. 93, 1966; Nos. 15 and 105, 1968; No. 23, 1972; Nos. 24 and 145, 1973; No. 216, 1973 (as amended by No. 20, 1974); No. 29, 1974; No. 91, 1976; No. 110, 1978; Nos. 11 and 50, 1979; No. 42, 1980; Nos. 61 and 65, 1981; Nos. 51, 80 and 108, 1982; No. 81, 1982 (as amended by No. 39, 1983); Nos. 39 and 101, 1983; Nos. 72 and 165, 1984; and Nos. 39, 40 and 175, 1985.

*[Minister's second reading speech made in—
House of Representatives on 17 April 1986
Senate on 30 April 1986]*