

**Customs and Excise Legislation Amendment Act 1990**

**No. 111 of 1990**

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**Customs and Excise Legislation Amendment
Act 1990**

**No. 111 of 1990**

**An Act to amend legislation relating to Customs and
Excise, and for related purposes**

[*Assented to 21 December 1990*]

The Parliament of Australia enacts:

**PART 1—PRELIMINARY**

**Short title**

**1.** This Act may be cited as the *Customs and Excise Legislation Amendment Act 1990.*

**Commencement**

**2. (1)** Subject to this Act, the provisions of this Act commence on a day or days to be fixed by Proclamation.

(**2**) Sections 1, 2 and 3, paragraphs 4 (a), (b), (c), (d) and (g), sections 5, 11, 27 and 30, paragraphs 34 (d) and (e), sections 35 and 36, section 37 so far as it relates to the amendments included in

Schedule 2 that relate to section 209 of the *Customs Act 1901*,and sections 38, 39, 47, 48 and 49 commence on the day on which this Act receives the Royal Assent.

**(3)** Section 26 commences 28 days after the day on which this Act receives the Royal Assent.

**(4)** Section 33 is taken to have commenced on 21 December 1989.

**(5)** If a provision of this Act, other than a provision referred to in subsection (2), (3) or (4), does not commence under subsection (1) within the period of 6 months commencing on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

**PART 2—AMENDMENTS OF THE CUSTOMS ACT 1901**

**Principal Act**

**3.** In this Part, **“Principal Act”** means the *Customs Act 1901*1*.*

**Interpretation**

**4.** Section 4 of the Principal Act is amended:

**(a)** by omitting paragraph (a) of the definition of “Commercial quantity” in subsection (1) and substituting the following paragraph:

“(a) in relation to a narcotic substance that is named or described in column 1 of Schedule VI—the quantity, if any, that is specified in column 3 of that Schedule opposite to the name or description of the substance; and”;

**(b)** by omitting from paragraph (b) of that definition “prescribed” (first occurring);

**(c)** by omitting from the definition of “Narcotic substance” in subsection (1) “the name of which is specified” and substituting “that is named or described”;

**(d)** by omitting paragraph (a) of the definition of “Trafficable quantity” in subsection (1) and substituting the following paragraph:

“(a) where the substance is named or described in column 1 of Schedule VI—the quantity that is specified in column 2 of that Schedule opposite to the name or description of that substance; and”;

**(e)** by omitting from subsection (1) the definition of “Commercial document” and substituting the following definition:

“ **‘commercial document’,** in relation to goods, means a document prepared in the ordinary course of business for the purposes of a commercial transaction involving the goods or the carriage of

the goods but does not include a record of any transmission to or from Customs, under the EXIT computer system, in respect of an export entry, submanifest (if any) or outward manifest in respect of the goods;”;

(**f**) by omitting from subsection (1) the definition of “Parts beyond the seas”;

(**g**) by omitting from subsection (1) the definition of “Prescribed narcotic substance”;

(**h**) by inserting in subsection (1) the following definitions:

“ **‘Applicable EXIT agreement’,** in relation to a registered EXIT user, means the EXIT agreement in force in respect of that user;

**‘Authority to deal’,** in relation to goods the subject of an export entry, means an export entry advice, in a form specified under subsection 114c (1), authorising the goods to be dealt with in accordance with the entry;

**‘EXIT agreement’** means an agreement entered into between Customs and a registered EXIT user under subsection 122a (7);

**‘EXIT computer system’** means the computer facilities specified in each EXIT agreement for all computer communications relating to the exportation of goods;

**‘Export entry’** means a computer export entry or a documentary export entry within the meaning of section 114;

**‘Export entry advice’** means a communication, in respect of an export entry, that is made in the manner, and has the form, specified in regulations made for the purpose of subsection 114c (1);

**‘Identifying code’,** in relation to a registered EXIT user, means the code allocated to the user under subsection 122a (8);

**‘Registered EXIT user’** means a person registered as such a user under section 122a;”;

(**j**) by inserting in subsection (1) the following definition:

“ **‘Place outside Australia’** does not include:

(a) a ship, or an area of waters, outside Australia; or

(b) an installation outside Australia; or

(c) a reef or an uninhabited island outside Australia;”.

**Approved forms and approved statements**

**5.** Section 4a of the Principal Act is amended:

**(a)** by inserting after subsection (1) the following subsection:

“(1a) In this Act, a reference to an approved statement is a reference to a statement that is approved, by instrument in writing, by the Comptroller.”;

**(b)** by inserting in subsection (2) “or statement” after “form”.

**Customs control of goods**

**6.** Section 30 of the Principal Act is amended:

(a) by inserting in paragraph (d) “(including goods delivered for export under section 61aa of the *Excise Act 1901*)” after “goods for export”;

(b) by omitting from paragraph (d) “their exportation to parts beyond the seas” and substituting “their exportation to a place outside Australia, or, in the case of goods delivered for export under section 61aa of the *Excise Act 1901*,their exportation to such a place or their return, in accordance with subsection 114d (2) of this Act, to Customs control under section 61 of the *Excise Act 1901*”*.*

**Entry of goods for home consumption, warehousing or transhipment**

**7.** Section 36 of the Principal Act is amended:

**(a)** by inserting in subsection (1) “under section 68” after “eligible to be entered”;

**(b)** by inserting in subsection (2a) “under section 68” after “eligible to be entered”;

**(c)** by inserting after paragraph (3) (e) “and”;

**(d)** by omitting paragraphs (3) (g) and (h).

**Information and documents relating to import entries**

**8.** Section 38b of the Principal Act is amended:

**(a)** by inserting in subsection (1) “under section 36 or 37” after “have been entered”;

**(b)** by inserting in subsection (2) “under section 36 or 37” after “an entry”;

**(c)** by omitting from subsection (2) “and which have been imported or are proposed to be exported,”.

**Authority to deal with goods**

**9.** Section 39 of the Principal Act is amended:

**(a)** by inserting in subsection (1) “under section 36 or 37” after “has been made”;

**(b)** by inserting in subsection (1b) “under section 36 or 37” after “entry of goods”;

**(c)** by omitting subsection (2) and substituting the following subsection:

“(2) Authority under this section to deal with goods may be expressed to be subject to the condition:

(a) that any specified permission for the goods to be dealt with, (however it is described) that may be required under another law of the Commonwealth is obtained; and

(b) that any specified obligation under this Act in respect of the goods is complied with;

and, for the purposes of this Act, where authority under this section is expressed to be subject to such a condition, it is taken not to have been given until any permission referred to in the condition has been obtained and any obligation referred to in that condition has been complied with.”.

**Repeal of section 64 and substitution of new sections**

**10.** Section 64 of the Principal Act is repealed and the following sections are substituted:

**Impending arrival report**

“64. (1) The master of a ship due to arrive at a port in Australia from a place outside Australia must, in accordance with subsection (3), report its impending arrival to Customs:

(a) if the journey from the place outside Australia is likely to take not less than 48 hours—not later than 48 hours before its arrival; and

(b) if the journey from the place outside Australia is likely to take less than 48 hours—not later than 24 hours before its arrival.

Penalty: $500.

“(2) The pilot of an aircraft due to arrive at an airport in Australia from a place outside Australia must, in accordance with subsection (3), report its impending arrival to Customs not later than 3 hours before its arrival.

Penalty: $500.

“(3) A report for the purposes of subsection (1) or (2) must:

(a) be communicated to Customs by sending or giving it to an officer doing duty in relation to the reporting of ships or aircraft at the port or airport at which the ship or aircraft is expected to arrive; and

(b) identify the ship or aircraft concerned and the port or airport at which it is expected to arrive and state the expected time of its arrival at that port or airport.

**Arrival report**

“64aa. (1) The master of a ship that has arrived at a port in Australia from a place outside Australia must, in accordance with subsection (2):

(a) before the end of a period of 24 hours after the ship’s arrival; or

(b) before the issue of a Certificate of Clearance in respect of the ship;

whichever first happens, report the ship’s arrival to Customs.

Penalty: $500.

“(2) A report for the purposes of subsection (1) must:

(a) be in writing; and

(b) be in an approved form; and

(c) be communicated to Customs by sending or giving it to an officer doing duty in relation to the reporting of ships at the port of arrival; and

(d) contain such information as is required by the form; and

(e) be signed in a manner specified in the form.

**Cargo report**

“64ab. (1) This section applies to a ship or aircraft on a voyage or flight to Australia from a place outside Australia.

“(2) Before a Collector’s permit is granted in respect of any goods, being cargo on board a ship to which this section applies that is due to arrive at a port in Australia (whether the first port or any subsequent port on the same voyage), the master or owner of the ship must communicate to Customs, by document or by computer, not later than 48 hours before the arrival of the ship at the port, a report of the cargo that is intended to be unshipped at the port.

“(3) Before a Collector’s permit is granted in respect of any goods, being cargo on board an aircraft to which this section applies that is due to arrive at an airport in Australia, (whether the first airport or any subsequent airport on the same journey), the pilot or owner of the aircraft must communicate to Customs:

(a) by document—not later than 3 hours after the arrival of the aircraft at the airport; or

(b) by computer—not later than the time of arrival of the aircraft at the airport;

a report of the cargo that is intended to be unshipped at the airport.

“(4) A documentary report of the cargo intended to be unshipped from a ship or aircraft at a particular port or airport must:

(a) be communicated to Customs by sending or giving it to a prescribed officer; and

(b) be in the approved form for ship cargo or air cargo, as the case requires; and

(c) contain:

(i) the information required by the form; or

(ii) particulars of the person who is able to provide the information required by the form; and

(d) be signed in a manner specified in the form.

“(5) A computer report of the cargo intended to be unshipped from a ship or aircraft must:

(a) be transmitted to Customs using the prescribed computer system; and

(b) communicate such information as is set out in an approved statement; and

(c) be signed by transmitting such identifying information as is prescribed.

“(6) Where:

(a) a person is involved in the importation of goods into a port in Australia on board a ship to which this section applies; and

(b) those goods constitute cargo in respect of which the master or owner of the ship would not have sufficient information to make a cargo report under subsection (2) without reference to other persons able to provide information;

the first-mentioned person may communicate to Customs, by document or computer, not later than the master or owner would be required to make a cargo report under subsection (2), a report in respect of that cargo in the same fashion as if that person were the master or owner of the ship.

“(7) Where:

(a) a person who is involved in the importation of goods into an airport in Australia on board an aircraft to which this section applies; and

(b) those goods constitute cargo in respect of which the pilot or owner of the aircraft would not have sufficient information to make a full cargo report under subsection (3) without reference to other persons able to provide information;

the first-mentioned person may communicate to Customs, by document or computer, not later than the pilot or owner would be required to make a cargo report under subsection (3), a report in respect of that cargo in the same fashion as if that person were the pilot or owner of the aircraft.

**Passenger and crew report**

“64ac. (1) This section applies to a ship on a voyage to Australia from a place outside Australia.

“(2) The master or owner of a ship to which this section applies that is due to arrive at a port in Australia must communicate to Customs, by document or by computer, not later than 48 hours before the arrival of the ship at the port (whether the first port or any subsequent port on the same voyage), a report of all the crew and passengers who will be on board the ship at the time of its arrival at the port.

Penalty: $500.

“(3) A documentary passenger and crew report must:

(a) be communicated to Customs by sending or giving it to a prescribed officer; and

(b) be in an approved form; and

(c) contain the information required by the form; and

(d) be signed in a manner specified in the form.

“(4) A computer passenger and crew report must:

(a) be transmitted to Customs using the prescribed computer system; and

(b) communicate such information as is set out in an approved statement; and

(c) be signed by transmitting such identifying information as is prescribed.

**Communication of impending arrival reports, arrival reports, cargo reports and passenger and crew reports**

“64ad. (1) For the purposes of this Act, an impending arrival report, an arrival report, a documentary cargo report or a documentary passenger and crew report may be sent to an officer referred to in subsection 64 (3), 64aa (2), 64ab (4) or 64ac (3), as the case requires, in any manner prescribed and, when so sent, is taken to have been communicated to Customs at such time and in such circumstances as are prescribed.

“(2) For the purposes of this Act, an impending arrival report, an arrival report, a documentary cargo report or a documentary passenger and crew report that is given to an officer referred to in subsection 64 (3), 64aa (2), 64ab (4) or 64ac (3), as the case requires, is taken to have been communicated to Customs when it is received by the officer.

“(3) For the purposes of this Act, a computer cargo report or a computer passenger and crew report that is transmitted to Customs using a prescribed computer system is taken to have been communicated to Customs when an acknowledgment of the report is transmitted to the person identified in the report as the person transmitting the report.”.

**Failure to make entries**

**11.** Section 72 of the Principal Act is amended:

**(a)** by inserting in subsection (2) “, or otherwise dispose of,” after “sell”;

**(b)** by inserting in subsection (4) “, or otherwise dispose of,” after “sell”.

**Repeal of section 74 and substitution of new section**

**12.** Section 74 of the Principal Act is repealed and the following section is substituted:

**Authority for unshipment**

“74. (1) Except as prescribed, the master or owner of a ship or the pilot or owner of an aircraft must not unship goods at a port or airport otherwise than in accordance with a Collector’s permit to unship the goods.

Penalty: $25,000.

“(2) A Collector’s permit to unship goods may be subject to such conditions as are specified in the permit.”.

**Entry of warehoused goods**

**13.** Section 99 of the Principal Act is amended:

**(a)** by omitting from subsection (3) “, other than goods to which section 114a applies,”;

**(b)** by omitting from subsection (3) “section 39” and substituting “section 114c”.

**Insertion of new heading**

**14.** Before section 112 of the Principal Act the following heading is inserted in Part VI:

***“Division 1*—*Prohibited exports”.***

**Repeal of sections and substitution of new heading and sections**

**15. (1)** Sections 113, 114 and 114a of the Principal Act are repealed and the following heading and sections are substituted:

***“Division 2*—*Entry and clearance of goods for export***

**Entry of goods for export**

“113. (1) Subject to this Act, the owner of goods intended for export:

(a) must enter the goods for export; and

(b) must not allow the goods:

(i) if the goods are a ship or aircraft that is to be exported otherwise than in a ship or aircraft—to leave the place of exportation; or

(ii) if the goods are other goods—to be loaded on the ship or aircraft in which they are to be exported;

unless an authority to deal with the goods has been given under section 114c.

Penalty: $5,000.

“(2) Subsection (1) does not apply to:

(a) goods that are accompanied or unaccompanied personal or household effects of a passenger in, or a member of the crew of, a ship or aircraft; and

(b) goods, other than prescribed goods, included in a consignment that is consigned through the Post Office by one person to another and that has an FOB value not exceeding $2,000 or such other amount as is prescribed; and

(c) goods, other than prescribed goods, included in a consignment to which a single export statistical item under the Australian Harmonised Export Commodity Classification applies, being a consignment that is exported by ship or aircraft and that has an FOB value not exceeding $500 or such other amount as is prescribed; and

(d) containers that are the property of a person carrying on business in Australia and that are exported on a temporary basis to be re-imported, whether empty or loaded; and

(e) containers that are intended for use principally in the international carriage of goods, other than containers that, when exported from Australia, cease, or are intended to cease, to be the property of a natural person resident, or a body corporate incorporated, in Australia; and

(f) goods that, under the regulations, are exempted from this section, either absolutely or on such terms and conditions as are specified in the regulations.

“(3) For the purposes of paragraph (2) (a), goods:

(a) in quantities exceeding what could reasonably be expected to be required by a passenger or member of the crew of a ship or aircraft for his or her own use; or

(b) that are, to the knowledge or belief of a passenger or a member of the crew of a ship or aircraft, to be sold, or used in the course of trading, outside Australia;

are not included in the personal or household effects of that passenger or crew member.

**What is an export entry?**

“114. (1) An export entry is a communication to Customs of information concerning goods intended for export that is effected either by document or by computer.

“(2) A documentary export entry must:

(a) be made by the owner of the goods concerned; and

(b) be communicated to Customs by sending or giving it to an officer doing duty in relation to export entries; and

(c) be in an approved form; and

(d) contain such information as is required by the form; and

(e) be signed in the manner specified in the form.

“(3) A computer export entry must:

(a) be transmitted by a registered EXIT user as the owner, or on behalf of the owner, of the goods concerned; and

(b) be transmitted to Customs using the EXIT computer system; and

(c) communicate such information as is set out in an approved statement; and

(d) be signed by transmitting the registered EXIT user’s identifying code.

“(4) Despite the fact that any law of the Commonwealth, including this Act, provides that the exportation of particular goods from Australia is prohibited unless a permission (however it is described) to export those goods is produced to an officer of Customs, that obligation will be taken to have been complied with if the permission obtained in respect of those goods is adequately identified in the information communicated to Customs in an export entry relating to those goods.

“(5) Nothing in subsection (4) affects any power of an officer of Customs, under this Act, to require the production of such permission.

“(6) When, in accordance with section 119d, an export entry is taken to have been communicated to Customs, the goods to which the entry relates are taken to have been entered.

**Information and documents relating to export entries etc.**

“114a. (1) Without limiting the generality of section 114c, where goods have been entered under section 114, authority to deal with the goods in accordance with the entry may be refused until an officer doing duty in relation to export entries has verified particulars of the goods shown in the entry:

(a) by reference to information contained in commercial documents relating to the goods that have been given to Customs by the owner of the goods on, or at any time after, the communication of the entry to Customs; or

(b) by reference to information, in writing, in respect of the goods that has been so given to Customs.

“(2) An officer doing duty in relation to export entries may, by notice in writing, require the owner of goods entered under section 114:

(a) to deliver to the officer the commercial documents in respect of the goods that are in the owner’s possession or under the owner’s control (including any such documents that had previously been delivered to an officer and had been returned to the owner); or

(b) to deliver to the officer such information, in writing, relating to the goods, being information of a kind specified in the notice, as is within the knowledge of the owner or as the owner is reasonably able to obtain.

“(3) An officer doing duty in relation to export entries may ask the owner of goods entered under section 114 and, if another person communicated the entry on behalf of the owner, that other person, any questions relating to the goods.

“(4) An officer doing duty in relation to export entries may require from the owner of any goods entered under section 114 proof of the particulars shown in the entry by declaration or the production of documents.

“(5) Where:

(a) the owner of goods has been required to deliver documents or information under subsection (2) in relation to the goods; or

(b) the owner of, or person giving an entry in respect of goods has been asked a question under subsection (3) in respect of the goods; or

(c) the owner of goods has been required under subsection (4) to produce proof of a matter in respect of the goods;

authority to deal with the relevant goods in accordance with the entry must not be granted unless the requirement has been complied with or revoked, the question has been answered or withdrawn or the requirement has been complied with or withdrawn, as the case may be.

“(6) Subject to section 215, where a person delivers a commercial document to an officer doing duty in relation to export entries under this section, the officer must deal with the document and then return the document to that person.

**Confirming exporters**

“114b. (1) A person who:

(a) proposes to communicate an export entry relating to particular goods or is likely to communicate, from time to time, export entries in relation to goods of a particular kind; and

(b) will be unable to include in that export entry or those export entries particular information in relation to those goods because the information cannot be ascertained until after the exportation of those goods;

may apply to the Comptroller for confirming exporter status in respect of that information and those goods.

“(2) An application under subsection (1) must:

(a) be in writing; and

(b) be in an approved form; and

(c) contain such particulars as are required by the form including the reasons the information referred to in subsection (1) cannot be ascertained before exportation.

“(3) Where a person applies for confirming exporter status in respect of particular information and particular goods or goods of a particular kind, the Comptroller must:

(a) if the Comptroller is satisfied that the information cannot be ascertained before exportation—grant the applicant that status by signing a notice stating:

(i) that the applicant is granted that status in respect of that information and those goods; and

(ii) that the grant is on such conditions as are specified in the notice; or

(b) if the Comptroller is not so satisfied—refuse to grant the applicant that status by signing a notice stating that the Comptroller has refused to grant the applicant that status and setting out the reasons for the refusal.

“(4) A grant of confirming exporter status has effect from the day on which the relevant notice is signed.

“(5) Without limiting the generality of the conditions to which a grant of confirming exporter status may be subject, those conditions must be expressed to include:

(a) a requirement that the appropriate confirming exporter status will be specified in any export entry relating to the goods in respect of which the status was granted where the confirming exporter proposes to rely on that status; and

(b) a requirement that full details of the information in respect of which the status was granted will be provided as soon as practicable after exportation and not later than the time the Comptroller indicates in the notice granting the status; and

(c) a requirement that, if information in respect of which the status was granted becomes, to the knowledge of the confirming exporter, able to be ascertained before the exportation of goods in respect of which the status was granted, the confirming exporter will notify the Comptroller forthwith.

“(6) Where the Comptroller is satisfied that information in respect of which confirming exporter status was granted is now able to be ascertained before exportation, he or she must sign a notice in writing:

(a) cancelling the confirming exporter status forthwith; or

(b) modifying the confirming exporter status so that it no longer relates to that information.

“(7) Where a person granted a confirming exporter status is respect of information and goods fails, without reasonable excuse, to comply with a condition to which the grant is subject, the person is guilty of an offence.

Penalty: $1,000.

“(8) Where:

(a) a person who is a confirming exporter in respect of information and goods of a particular kind is convicted of an offence against subsection (7); or

(b) the Comptroller becomes satisfied that a person who is such a confirming exporter has failed to comply with a condition of a grant of confirming exporter status although no proceedings for an offence against subsection (7) have been brought against the person;

the Comptroller may:

(c) cancel that person’s status in respect of that information and those goods; or

(d) modify that person’s status so that it no longer relates to specified information or goods or so that the conditions to which it is subject are altered in a specified respect;

by signing a notice stating that that status has been so cancelled or modified and setting out the reasons for that cancellation or modification.

“(9) A cancellation or modification of the confirming exporter status of a person has effect on the day the relevant notice was signed.

“(10) The Comptroller must, as soon as practicable after signing a notice under subsection (3), (6) or (8), serve a copy of the notice on the person concerned but a failure to do so does not alter the effect of the notice.

**Authority to deal with goods entered under section 114**

“114c. (1) Subject to this Act, where an entry in respect of goods has been sent, given or transmitted to Customs, the Customs must give an export entry advice, in a manner and form specified in the regulations, that constitutes either an authority to deal with the goods to which the entry relates in accordance with the entry or a refusal to provide such an authority.

“(2) Without limiting the generality of subsection (1), regulations specifying the form of an export entry advice must include in the information set out in that advice a number, called the export entry advice number, by which the advice can be identified.

“(3) Authority under this section to deal with goods must, unless an officer doing duty in relation to export entries has determined under subsection (4) that this subsection does not apply in relation to the goods, be expressed to be subject to the condition that an officer of Customs may, at any time within 5 years after the goods are entered for export, require verification of information that was transmitted to Customs for the purposes of their entry and may, for the purpose of that verification, exercise such of the powers conferred under section 214aa as the last-mentioned officer considers necessary.

 “(4) Where an officer doing duty in relation to export entries is satisfied that the information transmitted to Customs for the purposes of an export entry of goods will not require verification of that information after the goods are entered, he or she may determine, in writing, that subsection (3) does not apply in relation to the goods.

“(5) Authority under this section to deal with goods may be expressed to be subject to the condition:

(a) that any specified permission for the goods to be dealt with, (however it is described) that may be required under another law of the Commonwealth is obtained; and

(b) that any specified obligation under this Act in respect of the goods is complied with;

and, for the purposes of this Act, where authority under this section is expressed to be subject to such a condition, it is taken not to have been given until any permission referred to in the condition has been obtained and any obligation referred to in that condition has been complied with.

“(6) An officer doing duty in relation to export entries may, at any time before goods authorised to be dealt with in accordance with an export entry are so dealt with, cancel that authority:

(a) if the authority was given in respect of a documentary entry— by signing a notice stating that the authority is cancelled and setting out the reasons for that cancellation and serving a copy of that notice to the person who made the entry; and

(b) if the authority was given in respect of a computer entry:

(i) by transmitting to the registered EXIT user to whom the authority was given a cancellation notice setting out the same particulars as are required to be included in a notice referred to in paragraph (a); or

(ii) by signing and serving a notice of the kind referred to in paragraph (a);

and the cancellation has effect from the moment the notice is signed or transmitted as the case requires.

**Goods to be dealt with in accordance with export entry**

“114d. (1) The owner of goods in respect of which an export entry has been communicated to Customs:

(a) must, as soon as practicable after an authority to deal with the goods is granted, deal with the goods in accordance with the entry; and

(b) must not remove any of the goods from the possession of the person to whom they are delivered or of any person to whom they are subsequently passed in accordance with the entry unless the entry has been withdrawn, or withdrawn insofar as it applies to those goods.

Penalty: $1,000.

 “(2) Where excisable goods on which excise duty has not been paid have been delivered to a place prescribed for the purposes of paragraph 30 (d) of this Act and the export entry that applies to those goods is withdrawn, or withdrawn insofar as it applies to those goods, then:

(a) despite any implication to the contrary in subsection (1), the goods become, on the communication to Customs of the withdrawal, goods under Customs control under section 61 of the *Excise Act 1901*;and

(b) the withdrawal constitutes a permission, under section 61a of that Act, to move the goods back to the place from which they were first moved in accordance with the entry.

“(3) Where goods are goods on which Customs duty is payable but has not been paid and the export entry that applies to those goods is withdrawn, or withdrawn insofar as it applies to those goods, then:

(a) despite any implication to the contrary in subsection (1), the goods remain under Customs control; and

(b) the withdrawal constitutes a permission, under section 40aa of this Act, to move the goods back to the place from which they were first moved in accordance with the entry.”.

(2) Despite the repeal of section 114a of the Principal Act, where goods declared by the Comptroller under that section to be goods to which the section applies were delivered for export before the repeal of that section, the section, and regulations made for the purposes of the section and in force immediately before the repeal, continue to apply in relation to those goods as if that section and those regulations had not been repealed.

**Repeal of sections and substitution of new sections**

**16**. Sections 115 and 116 of the Principal Act are repealed and the following sections are substituted:

**Goods not to be taken on board without authority to deal**

“115. The owner of a ship or aircraft must not permit goods required to be entered for export to be taken on board the ship or aircraft for the purpose of exportation unless an authority to deal with the goods has been granted under section 114c.

**What happens when goods are not dealt with in accordance with an export entry?**

“116. (1) Where:

(a) goods are entered for export under section 114; and

(b) none of the goods or some only of the goods have been exported in accordance with the entry at the end of a period of 30 days after the intended day of exportation notified in the entry;

the authority to deal with the goods in accordance with the entry, so far as it relates to goods not exported before the end of the period, is, at the end of the period, taken to have been revoked.

“(2) Where an authority to deal with goods entered under section 114 is taken, under subsection (1), to have been totally or partially revoked, the owner of the goods must, within 7 days after the end of the period referred to in that subsection:

(a) if the authority to deal was taken to be totally revoked—withdraw the entry relating to the goods; and

(b) if the authority to deal was taken to be partially revoked—amend the entry so that it relates only to those goods exported before the end of the period.

Penalty: $5,000.

“(3) Where the owner of goods entered under section 114 amends the original entry in accordance with paragraph (2) (b), the owner is, in accordance with subsection 119c (1), taken to have withdrawn the original entry but this Act has effect:

(a) as if the amended entry had been communicated to Customs under section 114; and

(b) as if an authority to deal with the goods to which the amended entry relates in accordance with the amended entry had been granted under section 114c;

on the day, or the respective days, on which the original entry was communicated and the original authority to deal was granted.”.

**Insertion of new section**

**17**. After section 117 of the Principal Act the following section is inserted:

**Submanifests may be prepared before goods are exported**

“117a. (1) A person involved in the exportation of goods otherwise than as the master or owner of the ship, or the pilot or owner of the aircraft, in which those goods are to be exported, may, for the purpose of facilitating the obtaining of a Certificate of Clearance in respect of that ship or aircraft so as to enable that exportation, prepare and communicate to Customs, either by document or by computer, a submanifest in respect of those goods.

“(2) A documentary submanifest must:

(a) be communicated to Customs by sending or giving it to an officer doing duty in respect of the clearance of ships or aircraft; and

(b) be in an approved form; and

(c) contain such information as is required by the form; and

(d) be signed by the person compiling the submanifest.

 “(3) A computer submanifest must:

(a) be transmitted by a registered EXIT user as, or on behalf of, the person referred to in subsection (1); and

(b) be transmitted to Customs using the EXIT computer system; and

(c) communicate such information as is set out in an approved statement; and

(d) be signed by transmitting the registered EXIT user’s identifying code.

“(4) When an officer receives a documentary submanifest from the person who compiled it, he or she must acknowledge its receipt by giving the compiler a notice in writing specifying a submanifest number for inclusion in any outward manifest purportedly relating to the goods concerned.

“(5) When a computer submanifest is transmitted to the Customs, the Customs must transmit to the compiler of the submanifest a notice acknowledging its receipt and giving the compiler a submanifest number for inclusion in any outward manifest purportedly relating to the goods concerned.”.

**Requisites for obtaining Certificate of Clearance**

**18**. Section 119 of the Principal Act is amended:

**(a)** by omitting paragraph (1) (a) and substituting the following paragraph:

“(a) the master or owner of the ship or the pilot or owner of the aircraft must communicate to Customs, by document or by computer, an outward manifest in respect of all goods other than goods prescribed for the purposes of section 120; and”; and

**(b)** by omitting subsection (2) and substituting the following subsections:

“(2) A documentary outward manifest must:

(a) be communicated to Customs by sending or giving it to an officer doing duty in respect of the clearance of ships or aircraft; and

(b) be in an approved form; and

(c) contain such information as is specified in the form; and

(d) be signed in the manner specified in the form.

“(2a) A computer outward manifest must:

(a) be transmitted by a registered EXIT user as, or on behalf of, the master or owner of the ship or the pilot or owner of the aircraft concerned; and

(b) be transmitted to Customs using the EXIT computer system; and

 (c) communicate such information as is set out in an approved statement; and

(d) be signed by transmitting the registered EXIT user’s identifying code.

“(2b) If, within 24 hours after an outward manifest was communicated to Customs, a Certificate of Clearance has not been given to the master of the ship or pilot of the aircraft concerned, the master or pilot may, at any time within 14 days after the end of that period, apply to the Comptroller for a Certificate of Clearance and the decision of the Comptroller on the application is final and conclusive.”.

**Insertion of new sections**

**19**. After section 119 of the Principal Act the following sections are inserted:

**Withdrawal of entries, submanifests and manifests**

“119a. (1) At any time after an export entry, a submanifest or an outward manifest is communicated to Customs and before the goods to which it relates are exported, a withdrawal of the entry, submanifest or manifest may be communicated to Customs by document or computer.

“(2) A documentary withdrawal of an entry, submanifest or manifest must:

(a) be communicated by the person by whom, or on whose behalf, the entry, submanifest or manifest was communicated; and

(b) be communicated to Customs by sending or giving it to an officer doing duty in relation to export entries; and

(c) be in an approved form; and

(d) contain such information as is required by the form; and

(e) be signed in a manner specified in the form.

“(3) A computer withdrawal of an entry, submanifest or manifest must:

(a) be transmitted by a registered EXIT user as or on behalf of, the person by whom, or on whose behalf, the entry, submanifest or manifest was communicated; and

(b) be transmitted to Customs, using the EXIT computer system; and

(c) communicate such information as is set out in an approved statement; and

(d) be signed by transmitting the registered EXIT user’s identifying code.

“(4) A withdrawal of an entry, submanifest or manifest has effect when, in accordance with section 119d, it is communicated to Customs.

**Effect of withdrawal**

“119b. (1) When a withdrawal of an export entry takes effect, any authority to deal with the goods to which the entry relates is revoked.

“(2) Despite the withdrawal of an entry, submanifest or manifest:

(a) a person may be prosecuted in respect of the entry, submanifest or manifest; and

(b) a penalty may be imposed on a person who is convicted of an offence in respect of the entry, submanifest or manifest;

as if it had not been withdrawn.

“(3) The withdrawal of a documentary entry, documentary submanifest or documentary manifest the original of which was sent or given to an officer does not entitle the person who communicated it to have it returned.

**Change of computer entries, submanifests and manifests treated as withdrawals**

“119c. (1) Where a person who has communicated a computer export entry changes information included in that entry, the person is taken, at the time when an export entry advice is transmitted in respect of the altered entry, to have withdrawn the entry as it previously stood.

“(2) Where a person who has communicated a computer submanifest or a computer outward manifest changes information included in that submanifest or manifest, the person is taken, at the time when an acknowledgment of the altered submanifest or altered manifest, as the case requires, is transmitted, to have withdrawn the submanifest or manifest as it previously stood.

**Communication of entries, submanifests, manifests and withdrawals**

“119d. (1) For the purposes of this Act, a documentary export entry, a documentary submanifest, a documentary outward manifest, or a documentary withdrawal of such an entry, submanifest or manifest, may be sent to the officer referred to in subsection 114 (2), 117a (2), 119 (2) or 119a (2), as the case requires, in any manner prescribed and, when so sent, is taken to have been communicated to Customs at such time, and in such circumstances, as are prescribed.

“(2) For the purposes of this Act, a documentary export entry, a documentary submanifest, a documentary outward manifest, or a documentary withdrawal of such an entry, submanifest or manifest, as the case requires, that is given to the officer referred to in subsection 114 (2), 117a (2), 119 (2) or 119a (2), as the case requires, is taken to have been communicated to Customs when it is received by the officer.

“(3) For the purposes of this Act, a computer export entry, a computer submanifest, a computer outward manifest, or a computer withdrawal of such an entry, submanifest or manifest, as the case

requires, that is transmitted to Customs using the EXIT computer system is taken to have been communicated to Customs when an export entry advice or an acknowledgment of receipt of the submanifest, manifest or withdrawal is transmitted to the registered EXIT user whose identifying code appears on the entry, submanifest, manifest or withdrawal.”.

**Shipment of goods**

**20.** Section 120 of the Principal Act is amended by omitting paragraphs (b), (c) and (d) and substituting the following word and paragraph:

“; and (b) goods prescribed for the purpose of this section.”.

**Insertion of new Division and new heading**

**21. (1)** After section 122 of the Principal Act the following new Division and new heading are inserted:

***“Division 3***—***The use of computers for entry and clearance purposes***

**Registered EXIT users**

“122a. (1) To communicate with Customs by computer for a purpose identified in Division 2, a person must be a registered EXIT user.

“(2) A person wishing to become a registered EXIT user may apply to the Comptroller to be so registered.

“(3) An application must:

(a) be in writing; and

(b) be in an approved form; and

(c) contain such information as is required by the form.

“(4) The Comptroller may require an applicant for registration to give such additional information as the Comptroller considers necessary for the purposes of this Act and may refuse to register the person until the information is given to the satisfaction of the Comptroller.

“(5) Where an application is made to the Comptroller under this section, the Comptroller must, having regard to that application and where additional information is supplied in response to a request under subsection (4), to that additional information:

(a) register the applicant as a registered EXIT user by signing a notice stating that the applicant is a registered EXIT user; or

(b) refuse to register the applicant as a registered EXIT user by signing a notice stating that the Comptroller has refused to register the applicant and setting out the reasons for the refusal.

 “(6) Where the Comptroller registers a person as a registered EXIT user, the registration has effect from the day on which the relevant notice was signed.

“(7) Each registered EXIT user must, as soon as practicable after registration, enter into an agreement with Customs, setting out the terms and conditions of computer access to Customs for the purpose of communications relating to the exportation of goods including:

(a) a condition that the user will use computer facilities of a kind specified in the agreement for all computer communications with Customs relating to export entries; and

(b) a condition that the user, when assigned an identifying code by the Comptroller, will ensure the security of the code in a manner indicated in the agreement.

“(8) Where a registered EXIT user enters into an EXIT agreement, the Comptroller must forthwith allocate an identifying code to the user.

“(9) Where, at any time, the Comptroller becomes satisfied that a person who is a registered EXIT user has failed to comply:

(a) with an obligation imposed on the user under this Act; or

(b) with a term of the applicable EXIT agreement;

the Comptroller may cancel the registration of the registered EXIT user by signing a notice stating that the registration has been cancelled and setting out the reasons for that cancellation.

“(10) The cancellation of the registration of a person as a registered EXIT user has effect from the day the relevant notice was signed.

“(11) The Comptroller must, as soon as practicable after signing a notice under subsection (5) or (9), serve a copy of the notice on the person concerned but a failure to do so does not alter the effect of the notice.

**Unauthorised use of registered EXIT user’s identifying code**

“122b. Where a computer export entry, a computer submanifest, a computer outward manifest or a withdrawal of such an entry, submanifest or manifest is communicated to Customs using a registered EXIT user’s identifying code:

(a) without the authority of the user to whom the code was assigned; and

(b) before notification to Customs by the user of a possible breach of security;

that entry, submanifest, manifest or withdrawal will be, for all purposes, but subject to any evidence by the user to the contrary, taken to have been communicated by the user.

**What happens if the EXIT computer system is down?**

“122c. (1) Where:

(a) because the EXIT computer system is inoperative, a registered EXIT user cannot transmit a computer export entry to Customs or Customs cannot transmit an export entry advice to the user; and

(b) the exportation of the goods for which the entry is required could otherwise be delayed;

the user may contact an officer doing duty in relation to entries as specified in the applicable EXIT agreement; and

(c) give the officer such of the information that would ordinarily be contained in an export entry as the officer requests; and

(d) request the officer to give him or her a provisional clearance of the goods to which the export entry relates.

“(2) Where an application is made to an officer in respect of particular goods in the circumstances set out in subsection (1), he or she must, having regard to the information supplied:

(a) if he or she is satisfied that, were a computer export entry in respect of those goods able to be processed in the normal manner, the goods would be cleared for export in an export entry advice—give the registered EXIT user concerned a provisional clearance containing similar details to those that would be given in an export entry advice constituting an authority to deal with the goods; and

(b) if he or she is not so satisfied—refuse to give such a provisional clearance.

“(3) Where:

(a) a provisional clearance is given in respect of particular goods; and

(b) the goods are exported before an export entry advice is given in respect of the goods;

the goods are treated, for the purposes of this Part, as if the provisional clearance were an export entry advice constituting an authority to deal with the goods in the manner set out in the clearance, whether or not such an advice is ultimately given on an acquittal of the clearance under section 122d.

**Acquittal of provisional clearance**

“122d. (1) Where a registered EXIT user is given a provisional clearance in respect of particular goods, the user must, within 48 hours after the EXIT computer system is restored to operability, whether or not the goods have been exported:

(a) withdraw any previous computer export entry in respect of the goods that was not able to be processed while the system was inoperable; and

(b) transmit a computer export entry in respect of the goods; and

(c) include in the information transmitted in the entry, particulars of the provisional clearance in respect of the goods.

Penalty: $500.

“(2) Where a computer export entry is communicated to Customs in respect of goods in relation to which a provisional clearance was issued, any authority to deal with the goods in accordance with that entry is taken to have been issued at the time when the provisional clearance was given.

**Third party inquiries**

“122e. (1) Any person who, to the satisfaction of an officer of Customs:

(a) is involved in the preparation of a submanifest or manifest in respect of particular goods; or

(b) for any other reason, has a legitimate need to know of the existence of an authority to deal in respect of particular goods;

may request Customs to confirm the existence of such an authority in respect of all or any of those goods.

“(2) Any person who, to the satisfaction of an officer of Customs, is involved in the preparation of a manifest in respect of particular goods may request Customs to confirm:

(a) the existence of a submanifest in respect of any of those goods; and

(b) the existence of an authority to deal in respect of any of the goods covered by the submanifest.

“(3) A request under subsection (1) must quote the export entry advice number of any authority to deal in respect of which confirmation is sought under that section.

“(4) A request under subsection (2) must quote the submanifest number of any manifest in relation to which a confirmation is sought under that subsection.

***“Division 4***—***Exportation procedures after Certificate of Clearance issued”.***

(**2**) Where, immediately before the day fixed by Proclamation for the commencement of this section, a person has authority (however it is described) to use computer facilities for communication with Customs relating to the exportation of goods, that person is to be treated, on and after that day, as if he or she had been registered on that day as a registered EXIT user by virtue of a notice to that effect having been signed under subsection 122a (5) of the Principal Act as amended by this Act.

**Insertion of new heading**

**22.** After section 126 of the Principal Act the following heading is inserted:

***“Division 5****—****Miscellaneous”.***

**Insertion of new section**

**23.** After section 126b of the Principal Act the following section is inserted in Part VI:

**Size of exporting vessel**

“126c. Goods subject to the control of Customs must not be exported in a ship of less than 50 tons gross registered without the written permission of the Comptroller.

Penalty: $1,000.

**Duty on goods in report of cargo that are not produced or landed**

**24.** Section 149 of the Principal Act is amended by omitting “shall not be produced” and substituting “are not produced”.

**Forfeited goods**

**25.** Section 229 of the Principal Act is amended by omitting from paragraph (1) (e) “Inward Manifest” and substituting “cargo report made under section 64ab”.

**Special provisions with respect to narcotic goods**

**26.** Section 233b of the Principal Act is amended by inserting after paragraph (1) (c) the following paragraph:

“(caa) without reasonable excuse (proof whereof shall lie upon him) conveys, or attempts to convey, any prohibited imports to which this section applies which have been imported into Australia in contravention of this Act; or”.

**Evidence of Analyst**

**27.** Section 233ba of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

“(2) Subject to subsection (4), in any proceedings for an offence against section 233b, a certificate of an analyst in an approved form stating, in respect of a substance in relation to which the offence is alleged to have been committed:

(a) that the analyst signing the certificate is appointed under subsection (1); and

(b) when and from whom the substance was received; and

(c) what, if any, labels or other means of identifying the substance accompanied it when it was received; and

(d) what container or containers the substance was contained in when it was received; and

(e) a description, and the weight, of the substance received; and

(f) when the substance, or a portion of it, was analysed; and

(g) a description of the method of analysis; and

(h) the results of the analysis; and

(j) how the substance was dealt with after handling by the analyst, including details of:

(i) the quantity retained; and

(ii) the name of the person, if any, to whom any retained quantity was given; and

(iii) measures taken to secure any retained quantity;

is admissible as *prima facie* evidence of the matters in the certificate and of the correctness of the result of the analysis.”.

**Customs offences**

**28.** Section 234 of the Principal Act is amended by inserting after subsection (2) the following subsections:

“(2a) Where a computer export entry, a computer submanifest, a computer outward manifest or a computer withdrawal of such an entry, submanifest or manifest, is taken, under section 122b, to have been communicated to Customs, then, for the purposes of paragraph (1) (d):

(a) the part of the communication constituting the transmission to Customs is treated as a statement made to the Comptroller; and

(b) the statement is taken to have been made by the person with whose identifying code the relevant transmission for the purpose of the entry, submanifest, manifest or withdrawal, as the case requires, was signed.

“(2b) Nothing in subsection (2a) is to be taken to affect the operation of any of the provisions of section 183.”.

**Insertion of new section**

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

**Unauthorised use of identifying codes**

“234ac. A registered EXIT user must:

(a) take all reasonable steps, in accordance with the applicable EXIT agreement, to safeguard the security of the identifying code allocated to the user; and

(b) notify Customs, at the earliest available opportunity, if the user is aware that the identifying code is, or is likely to be known to any person other than a person to whom the user has made

the code available in circumstances contemplated under the applicable EXIT agreement.

Penalty: $5,000.”.

**Penalties for offences in relation to narcotic goods**

**30.** Section 235 of the Principal Act is amended by omitting subparagraph (2) (c) (i) and substituting the following subparagraph:

“(i) that the narcotic goods in relation to which the offence was committed:

(a) are a narcotic substance in respect of which there is a commercial quantity applicable; and

(b) consist of a quantity of that substance that is not less than that commercial quantity; or”.

**Commercial documents to be kept**

**31.** Section 240 of the Principal Act is amended:

**(a)** by omitting from subsection (1) “imports goods” and substituting “is the owner of goods imported”;

**(b)** by omitting from subsection (1) “to ascertain whether the goods are properly described and, in the case of goods that are entered for home consumption, properly valued or rated for duty” and substituting “to enable a Collector to satisfy himself or herself of the correctness of the particulars shown in the entry”;

**(c)** by inserting after subsection (1) the following subsection:

“(1a) A person who is the owner of goods exported from Australia must keep all the relevant commercial documents relating to the goods that come into that persons possession or control before, or come into that persons possession or control on or after, the entry of those goods for export, being documents that are necessary to enable a Collector to satisfy himself or herself of the correctness of the particulars shown in the entry, until the expiration of the period of 5 years after the goods are so entered.

Penalty: $2000.”;

**(d)** by inserting in subsection (2) “or (1a)” after “subsection (1)”;

**(e)** by inserting in subsection (3) “or (1a)” after “subsection (1)”;

**(f)** by inserting in subsection (4) “or (1a)” after “subsection (1)”;

**(g)** by inserting in paragraph (4) (a) “for the purpose of importation or exportation, as the case requires,” after “properly described”;

(**j**) by inserting in subsection (6) “, (1a)” after “subsection (1)”.

**Insertion of new section**

**32.** After section 240 of the Principal Act the following section is inserted in Division 1:

**Certain records to be kept by Customs**

“241. (1) Customs must keep a record of all transmissions made to or by Customs under the EXIT computer system, relating to any export entry, submanifest, manifest in respect of the goods, or withdrawal of such an entry, submanifest or manifest, for a period of 5 years after the goods are entered.

“(2) In any proceedings under this Act, the record retained by Customs under this section:

(a) is admissible in evidence; and

(b) is *prima facie* evidence:

(i) if it purports to be a record of a transmission made to Customs—that the person by whom or with whose identifying code the transmission was signed made the statements contained in the transmission; and

(ii) if it purports to be a record of a transmission made by Customs—that Customs made the statements contained in the transmission.”.

**Interpretation**

**33.** Section 269t of the Principal Act is amended:

**(a)** by omitting from the definition of “countervailing duty” in subsection (1) “by virtue of a declaration under subsection 10 (2b), (2c) or (2d)” and substituting “by virtue of a declaration under subsection 269tj (4), (5) or (6) of this Act”; and

**(b)** by omitting from subsection (1) the definitions of “countervailing duty notice” and “dumping duty notice” and substituting respectively the following definitions:

“ **‘countervailing duty notice’** means a notice published by the Minister under subsection 269tj (1) or (2) or 269tk (1) or (2);

**‘dumping duty notice’** means a notice published by the Minister under subsection 269tg (1) or (2) or 269th (1) or (2);”.

**Review of decisions**

**34.** Section 273ga of the Principal Act is amended:

**(a)** by inserting after paragraph (1) (a) the following paragraph:

“(aaaa) a decision under section 39 to suspend an authority to deal with goods;”;

**(b)** by inserting after paragraph (1) (b) the following paragraphs:

“(ba) a decision by the Comptroller under section 114b to refuse to grant a person confirming exporter status;

(bb) a decision by the Comptroller under section 114b to cancel or modify a person’s status as a confirming exporter;

(bc) a decision by an officer under section 114c to cancel an authority to deal with goods;”;

**(c)** by inserting after paragraph (1) (c) the following paragraphs:

“(ca) a decision by the Comptroller under section 122a to refuse to register a person as a registered EXIT user;

(cb) a decision by the Comptroller under section 122a to cancel a person’s registration as a registered EXIT user;”;

**(d)** by inserting after paragraph (1) (h) the following paragraphs:

“(haaa) a decision of a Collector under section 163 in relation to an application for a refund, rebate or remission of duty;”;

**(e)** by inserting after paragraph (1) (ja) the following paragraphs:

“(jb) a decision of a Collector under section 168 in relation to an application for a drawback of duty;”.

**Repeal and substitution of Schedule VI**

**35.** The Principal Act is amended by repealing Schedule VI and substituting the Schedule set out in Schedule 1 to this Act.

**Repeal of Schedule VIII**

**36.** The Principal Act is amended by repealing Schedule VIII.

**Further amendments of the Principal Act**

**37.** The Principal Act is further amended as set out in Schedule 2 to this Act.

**Continuation of certain legal proceedings**

**38.** Where, before the commencement of this section, proceedings had been instituted in respect of a narcotic substance that was a prescribed narcotic substance, by virtue either of its inclusion in column 1 of Schedule VIII or by virtue of its having been declared by the regulations to be a prescribed narcotic substance but those proceedings had not finally been determined, those proceedings may continue as if the amendments to the Principal Act made by paragraphs 4 (a), (b), (c), (d) and (g) and sections 30, 35 and 36 of this Act had not been made.

**PART 3—AMENDMENTS OF THE EXCISE ACT 1901**

**Principal Act**

**39.** In this Part, **“Principal Act”** means the *Excise Act 1901*2*.*

**Interpretation**

**40.** Section 4 of the Principal Act is amended by inserting in subsection (1) the following definition:

“ **‘Place outside Australia’** does not include:

(a) a ship or an area of waters, outside Australia; or

(b) an installation outside Australia; or

(c) a reef or an uninhabited island outside Australia.”.

**Entry for home consumption etc.**

**41.** Section 58 of the Principal Act is amended:

**(a)** by omitting paragraph (1) (c);

**(b)** by inserting after subsection (1a) the following subsection:

“(1b) Where it is intended to export excisable goods, the exportation of those goods must be dealt with under Part VI of the *Customs Act 1901*,but the granting of an authority to deal with those goods under section 114c of that Act does not affect any Customs control over those goods in accordance with section 61 of this Act.”;.

**(c)** by omitting subsection (2) and substituting the following subsection:

“(2) Subject to subsection (3), excisable goods that are stabilised crude petroleum oil or liquefied petroleum gas must not be entered for exportation under the *Customs Act 1901* unless and until the goods:

(a) have been entered for home consumption under this Act;

or

(b) are treated, under section 61c, as if they had been so entered.”.

**Repeal of sections 58a and 58b**

**42. (1)** Section 58a and 58b of the Principal Act are repealed.

(**2**) Despite the repeal of section 58a of the Principal Act, where excisable goods declared by the Comptroller under the section to be goods to which the section applies were, before the repeal of the section, removed to a ship or aircraft for exportation on the ship or aircraft to parts beyond the seas, the section and regulations made for the purposes of this section and in force immediately before the repeal, continue to apply in relation to those goods as if the section and those regulations had not been repealed.

**Payment of duty**

**43.** Section 59 of the Principal Act is amended by omitting paragraph (b) and substituting the following paragraphs:

“(b) except in the case of goods taken to be entered for home consumption under subsection 61c (2)—before the entry for home consumption is passed; and

(c) in the case of goods taken to be entered for home consumption under subsection 61c (2)—at the time specified in the permission given under section 61c.”.

**Repeal of section and substitution of new sections**

**44.** Section 61 of the Principal Act is repealed and the following sections are substituted:

**Customs control**

“61. All excisable goods are, until delivered for home consumption or for exportation to a place outside Australia, whichever first occurs, subject to the control of Customs and must not be moved, altered or interfered with except as authorised by this Act.

Penalty: $20,000.

**Delivery for exportation**

“61aa. (1) For the purposes of this Act, excisable goods, other than goods delivered to a person under section 61d (2), are not taken to have been delivered for exportation until they are brought into a place that is a prescribed place for the purposes of paragraph 30 (d) of the *Customs Act 1901* for export.

“(2) For the purposes of this Act excisable goods delivered to a person under subsection 61d (2) are taken to have been delivered for exportation at the time when they are received by that person.

**Permission to deliver for exportation**

“61ab. Where an authority to deal with goods that are excisable goods in accordance with an export entry relating to those goods is granted under section 114c of the *Customs Act 1901*,that authority is to be treated, for the purposes of this Act, as a permission to deliver those goods for exportation.”.

**Permission to deliver certain goods for home consumption without entry**

**45.** Section 61c of the Principal Act is amended:

**(a)** by omitting subsection (1a);

**(b)** by omitting from subsection (2) “or delivered for home consumption or exportation by authority of subsection (1a)”;

**(c)** by omitting from subsection (3) “or (1a)”;

**(d)** by omitting from subsection (4) “or exportation”;

**(e)** by omitting from subsection (4) “or (1a), as the case requires”;

**(f)** by omitting from subsection (4) “or exportation as the case requires”.

**Outwards duty free shops**

**46.** Section 6id of the Principal Act is amended by omitting from subsection (1) the definition of “place outside Australia”.

**Review of decisions**

**47.** Section 162c of the Principal Act is amended:

(**a**) by inserting after paragraph (1) (e) the following paragraph:

“(ea) a decision of a Collector under section 78 in relation to a remission, refund or rebate of excise duty;”;

(**b**) by inserting after paragraph (1) (fa) the following paragraph:

“(faaa) a decision of a Collector under section 79 in relation to a drawback of excise duty;”.

**PART 4—MISCELLANEOUS**

**Consequential amendments of the *Administrative Appeals Tribunal Act 1975***

**48.** The *Administrative Appeals Tribunal Act 1975* is amended as set out in Schedule 3.

**Customs (Prohibited Imports) Regulations**

**49.** Where, on any day after 13 December 1956, the Minister, in the purported exercise of a power conferred on the Minister under item 18 of the Second Schedule to the Customs (Prohibited Imports) Regulations, declared himself to be of the opinion that goods of a particular kind were of a dangerous character and a menace to the community, then:

(a) during the period commencing on that day and ending on 11 October 1990 or such earlier day as the Minister, in the purported exercise of that power, ceased to declare himself to be of that opinion in respect of goods of that kind, those Regulations are to be treated as having effect as if goods of that kind had been expressly listed in the Second Schedule to those Regulations; and

(b) any measures for the seizure and condemnation of goods of that kind are to be treated as if they were measures for the seizure and condemnation of goods of that kind that were expressly so listed during that period.

**SCHEDULE 1** Section 35

NEW SCHEDULE VI TO BE SUBSTITUTED FOR CURRENT
SCHEDULE VI TO THE CUSTOMS ACT 1901

|  |  |
| --- | --- |
| “SCHEDULE VI | Section 4 |
| Column 1 | Column 2 | Column 3 |
| Substance | Trafficable quantity (grams) | Commercial quantity (kilograms) |
| ACETORPHINE | 2.000 |  |
| ACETYL-ALPHA-METHYLFENTANYL | 0.005 | 0.005 |
| ACETYLCODEINE | 2.0 |  |
| ACETYLDIHYDROCODEINE | 2.0 |  |
| ACETYLMETHADOL | 2.0 |  |
| ALLYLPRODINE | 2.0 |  |
| ALPHACETYLMETHADOL | 10.0 |  |
| ALPHAMEPRODINE | 0.2 |  |
| ALPHAMETHADOL | 0.2 |  |
| ALPHA-METHYLFENTANYL | 0.005 | 0.005 |
| ALPHA-METHYLTHIOFENTANYL | 0.005 | 0.005 |
| ALPHAPRODINE | 25.0 |  |
| AMPHECOLORAL | 2.0 |  |
| 3- (2-AMINOPROPYL) INDOLE | 2.0 |  |
| AMPHETAMINE | 2.0 |  |
| ANILERIDINE | 25.0 |  |
| BARBITURATES | 50.0 |  |
| BENZETHIDINE | 10.0 |  |
| BENZYLMORPHINE | 5.0 |  |
| BETACETYLMETHADOL | 5.0 |  |
| BETA-HYDROXYFENTANYL | 0.005 | 0.005 |
| BETA-HYDROXY-3-METHYLFENTANYL | 0.005 | 0.005 |
| BETAMEPRODINE | 5.0 |  |
| BETAMETHADOL | 5.0 |  |
| BETAPRODINE | 5.0 |  |
| BEZITRAMIDE | 5.0 |  |
| 4-BROMO-2, 5- DIMETHOXYAMPHETAMINE | 0.5 |  |
| BUFOTENINE | 2.0 |  |
| CANNABINOIDS | 2.0 |  |
| CANNABIS | 100.0 | 100.0 |
| CANNABIS RESIN | 20.0 | 50.0 |
| CHLORPHENTERMINE | 2.0 |  |
| CLONITAZENE | 5.0 |  |
| COCAINE | 2.0 | 2.0 |
| CODEINE | 10.0 |  |
| CODEINE-N-OXIDE | 10.0 |  |
| CODOXIME | 10.0 |  |
| DESOMORPHINE | 2.0 |  |
| DIAMPROMIDE | 5.0 |  |
| DIETHYLPROPION | 5.0 |  |

**SCHEDULE 1—**continued

|  |  |  |
| --- | --- | --- |
| Column 1 | Column 2 | Column 3 |
| Substance | Trafficable quantity (grams) | Commercial quantity (kilograms) |
| DIETHYLTHIAMBUTENE | 5.0 |  |
| N, N-DIETHYLTRYPTAMINE | 2.0 |  |
| DIHYDROCODEINE | 10.0 |  |
| DIHYDROMORPHINE | 10.0 |  |
| DIMENOXADOL | 10.0 |  |
| DIMEPHEPTANOL | 10.0 |  |
| 2, 5-DIMETHOXY-4-METHYLAMPHETAMINE | 2.0 |  |
| DIMETHYLTHIAMBUTENE | 20.0 |  |
| N, N-DIMETHYLTRYPTAMINE | 2.0 |  |
| DIOXAPHETYL BUTYRATE | 2.0 |  |
| DIPHENOXYLATE | 2.0 |  |
| DIPIPANONE | 10.0 |  |
| ECGONINE | 10.0 |  |
| ETHYLMETHYLTHIAMBUTENE | 10.0 |  |
| ETHYLMORPHINE | 2.0 |  |
| ETONITAZENE | 5.0 |  |
| ETORPHINE | 5.0 |  |
| ETOXERIDINE | 5.0 |  |
| FENTANYL | 0.005 |  |
| FURETHIDINE | 1.0 |  |
| HARMALINE | 2.0 |  |
| HARMINE | 2.0 |  |
| HEROIN | 2.0 | 1.5 |
| HYDROCODONE | 2.0 |  |
| HYDROMORPHINOL | 2.0 |  |
| HYDROMORPHONE | 2.0 |  |
| HYDROXYAMPHETAMINE | 2.0 |  |
| HYDROXYPETHIDINE | 5.0 |  |
| KETOBEMIDONE | 2.0 |  |
| LEVORPHANOL | 1.0 |  |
| LYSERGAMIDE | 0.1 |  |
| LYSERGIC ACID | 0.002 | 0.002 |
| LYSERGIDE | 0.002 | 0.002 |
| MESCALINE | 7.5 |  |
| METAZOCINE | 7.0 |  |
| METHADONE | 2.0 |  |
| METHAQUALONE | 50.0 |  |
| METHORPHAN | 2.0 |  |
| METHYLAMPHETAMINE | 2.0 |  |
| 3, 4-METHYLENEDIOXYAMPHETAMINE | 0.5 |  |
| 3, 4-METHYLENEDIOXYMETHAMPHETAMINE | 0.50 | 0.50 |
| METHYLDESORPHINE | 2.0 |  |
| METHYLDIHYDROMORPHINE | 2.0 |  |
| 3-METHYLFENTANYL | 0.005 | 0.005 |
| METHYLPHENIDATE | 2.0 |  |
| 1-METHYL-4-PHENYL-4-PROPIONOXYPIPERIDINE (MPPP) | 2.0 | 2.0 |
| 3-METHYLTHIOFENTANYL | 0.005 | 0.005 |
| METOPON | 2.0 |  |

**SCHEDULE 1—**continued

|  |  |  |
| --- | --- | --- |
| Column 1 | Column 2 | Column 3 |
| Substance | Trafficable quantity (grams) | Commercial quantity (kilograms) |
| MONOACETYLMORPHINES | 2.0 |  |
| MORAMIDE | 2.0 |  |
| MORPHERIDINE | 2.0 |  |
| MORPHINE | 2.0 | 1.5 |
| MORPHINE-N-OXIDE | 2.0 |  |
| MYROPHINE | 20.0 |  |
| NICOCODINE | 2.0 |  |
| NICODICODINE | 2.0 |  |
| NICOMORPHINE | 2.0 |  |
| NORACYMETHADOL | 2.0 |  |
| NORCODEINE | 2.0 |  |
| NORLEVORPHANOL | 2.0 |  |
| NORMETHADONE | 5.0 |  |
| NORMORPHINE | 20.0 |  |
| NORPIPANONE | 10.0 |  |
| OPIUM | 20.0 | 20.0 |
| OXYCODONE | 5.0 |  |
| OXYMORPHONE | 2.0 |  |
| PARA-FLUOROFENTANYL | 0.005 | 0.005 |
| PENTAZOCINE | 20.0 |  |
| PETHIDINE | 10.0 |  |
| PHENADOXONE | 10.0 |  |
| PHENAMPROMIDE | 10.0 |  |
| PHENAZOCINE | 1.0 |  |
| PHENDIMETRAZINE | 5.0 |  |
| PHENMETRAZINE | 5.0 |  |
| PHENOMORPHAN | 5.0 |  |
| PHENOPERIDINE | 1.0 |  |
| 1-PHENYLETHYL-4-PHENYL-4- |  |  |
| ACETOXYPIPERIDINE (PEPAP) | 2.0 | 2.0 |
| PHOLCODINE | 5.0 |  |
| PIMINODINE | 10.0 |  |
| PIPRADROL | 1.0 |  |
| PIRITRAMIDE | 1.0 |  |
| PROHEPTAZINE | 1.0 |  |
| PROPERIDINE | 25.0 |  |
| PSILOCIN | 0.1 |  |
| PSILOCYBIN | 0.1 |  |
| TETRAHYDROCANNABINOLS | 2.0 | 5.0 |
| THEBACON | 2.0 |  |
| THEBAINE | 2.0 |  |
| THIOFENTANYL | 0.005 | 0.005 |
| TRIMEPERIDINE | 10.0 |  |
| A substance (“drug analogue”) which is, in relation to another substance (being a substance specified elsewhere in this Schedule, or a stereoisomer, a structural isomer (with the same constituent groups) or an alkaloid of such a substance):— |  |  |

**SCHEDULE 1—**continued

|  |  |  |
| --- | --- | --- |
| Column 1 | Column 2 | Column 3 |
| Substance | Trafficable quantity (grams) | Commercial quantity (kilograms) |
| (a) a stereoisomer; or(b) a structural isomer having the same constituent groups; or(c) an alkaloid; or(d) a structural modification obtained in 1 or more of the following ways:(i) by the replacement of up to 2 carbocyclic or heterocyclic ring structures with different carbocyclic or heterocyclic ring structures;(ii) by the addition of hydrogen atoms to 1 or more unsaturated bonds;(iii) by the addition of 1 or more of the following groups, namely alkoxy, cyclic diether, acyl, acyloxy, monoamino and dialkylamino groups with up to 6 carbon atoms in any alkyl residue; alkyl, alkenyl and alkynyl groups with up to 6 carbon atoms in the group, where the group is attached to oxygen (for example, an ester or an ether group), nitrogen, sulphur or carbon; and halogen, hydroxy, nitro and amino groups;(iv) by the replacement of 1 or more of the groups specified in subparagraph (iii) with another such group or groups;(v) by the conversion of a carboxyl or an ester group into an amide group; or(e) otherwise an homologue, analogue, chemical derivative or substance substantially similar in chemical structure; |  |  |

**SCHEDULE 1—**continued

|  |  |  |  |
| --- | --- | --- | --- |
| Column 1 | Column 2 |  | Column 3 |
| Substance | Trafficable quantity (grams) |  | Commercial quantity (kilograms) |
| however obtained, except where the drug analogue is separately specified in this Schedule | The minimum trafficable quantity of: |  | The minimum commercial quantity, if |
|  | (a) that other substance in relation to which the substance is a drug analogue; or |  | any, of:(a) that other substance in relation to which the substance is a drug analogue; or |
|  | (b) if there is more than 1 such other substance—that other substance having the least minimum trafficable quantity |  | (b) if there is more than 1 such other substance—that other substance having the least minimum commercial quantity. |

**SCHEDULE 2** Section 37

FURTHER AMENDMENTS OF THE CUSTOMS ACT 1901

**Section 30:**

Omit “parts beyond the seas” (first and second occurring), substitute “a place outside Australia”.

**Subsection 30a (6):**

Omit “parts beyond the seas”, substitute “a place outside Australia”.

**Section 31:**

Omit “parts beyond the seas”, substitute “a place outside Australia”.

**Section 60:**

Omit “parts beyond the seas” (wherever occurring), substitute “a place outside Australia”.

**Subsection 96a (1) (definition of “place outside Australia”):**

Omit the definition.

**Subsection 96b (1) (definition of “place outside Australia”):**

Omit the definition.

**Section 126b:**

Omit “parts beyond the seas”, substitute “a place outside Australia”.

**Section 127:**

Omit “parts beyond the seas”, substitute “a place outside Australia”.

**Section 130c (definition of “place outside Australia”):**

Omit the definition.

**Paragraph 187 (b):**

Omit “parts beyond the seas”, substitute “a place outside Australia”.

**Subsection 209 (3):**

Omit “$500”, substitute “$1,000”.

**Subsection 209 (3b):**

Omit “$500”, substitute “$1,000”.

**Section 274:**

Omit “parts beyond the seas”, substitute “a place outside Australia”.

**SCHEDULE 2—continued**

**Section 275:**

Omit “parts beyond the seas”, substitute “a place outside Australia”.

**SCHEDULE 3** Section 48

CONSEQUENTIAL AMENDMENTS OF THE ADMINISTRATIVE
APPEALS TRIBUNAL ACT 1975

**Section 26:**

Omit the section.

**Schedule 1:**

Omit the Schedule.

**NOTES**

1. No. 6, 1901, as amended. For previous amendments, see No. 21, 1906; Nos. 9 and 36, 1910; 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; Nos. 39, 40 and 175, 1985; Nos. 10, 34 and 149, 1986; Nos. 51, 76, 81, 104 and 141, 1987; Nos. 63, 66 and 76, 1988; Nos. 23, 24, 78, 108 and 174, 1989; and Nos. 5, 6, 11 and 70, 1990.

2. 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; Nos. 39 and 175, 1985; No. 40, 1985 (as amended by No. 34, 1986); Nos. 10, 34 and 149, 1986; Nos. 81 and 104, 1987; No. 99, 1988; Nos. 23, 24 and 78 of 1989; and No. 5, 1990.

[*Minister’s second reading speech made in*—

*House of Representatives on 13 November 1990*

*Senate on 15 November 1990*]