



Customs Amendment (Military End-Use) Act 2012

No. 152, 2012

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

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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No. 152, 2012

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

[Assented to 13 November 2012]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Customs Amendment (Military
End-Use) Act 2012*.

2 Commencement

This Act commences on the day after this Act receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Customs Act 1901

1 After Division 1 of Part VI

Insert:

Division 1AA—Export of goods for a military end-use

112BA Notice prohibiting export

- (1) If:
- (a) the Defence Minister suspects that, if a person (the *first person*) were to export particular goods to a particular place or to a particular person, the goods would or may be for a military end-use that would prejudice the security, defence or international relations of Australia; and
 - (b) the goods are not prohibited exports under section 112;
- the Defence Minister may give the first person a notice prohibiting the first person from exporting the goods to the particular place or particular person.

Note: Section 112BB deals with giving notices under this section.

Reasons for notice

- (2) A notice given to a person under subsection (1) must set out the Defence Minister's reasons for giving the notice.
- (3) The notice must not disclose any reasons whose disclosure the Defence Minister believes would prejudice the security, defence or international relations of Australia.
- (4) If reasons are not disclosed in a notice under subsection (1) because of subsection (3), that fact must be stated in the notice.

Period notice in force

- (5) A notice given to a person under subsection (1) comes into force at the time the person receives the notice. This subsection is subject to subsection (7).

- (6) A notice given to a person under subsection (1) remains in force for the period specified in, or worked out in accordance with, the notice (which must not be more than 12 months), unless revoked earlier.

Later notices

- (7) A notice may be given to a person under subsection (1) while an earlier notice given to the person under subsection (1) is in force. The later notice may be expressed to come into force at the time the earlier notice ceases to be in force.
- (8) Subsection (7) does not prevent a notice being given to a person under subsection (1) after an earlier notice given to the person under subsection (1) ceases to be in force.

Notice not a legislative instrument

- (9) A notice under subsection (1) is not a legislative instrument.

Revoking a notice

- (10) The Defence Minister may, by writing, revoke a notice given to a person under subsection (1).
- (11) The Defence Minister must give the person notice of the revocation. The revocation takes effect at the time the person receives the notice.

Note: Section 112BB deals with giving notices under this section.

Offence

- (12) A person commits an offence if:
- (a) the person exports goods to a particular place or particular person; and
 - (b) the export contravenes a notice that is in force under subsection (1); and
 - (c) the person knows of the contravention.

Penalty: Imprisonment for 10 years or 2,500 penalty units, or both.

Definition

(13) In this section:

military end-use: goods are or may be for a ***military end-use*** if the goods are or may be for use in operations, exercises or other activities conducted by an armed force or an armed group, whether or not the armed force or armed group forms part of the armed forces of the government of a foreign country.

112BB How notices are to be given

- (1) A notice given to a person under section 112BA must be given by one of the methods prescribed by the regulations.
- (2) If a notice is given to a person under section 112BA by one of those methods, then, for the purposes of this Act, the person is taken to have received the notice at the time prescribed by, or worked out in accordance with, the regulations.
- (3) This section has effect despite any provision in the *Electronic Transactions Act 1999*.

112BC Statement to Parliament

As soon as practicable after the end of each financial year, the Defence Minister must cause a statement to be tabled in each House of the Parliament about the exercise of the Defence Minister's powers under this Division during that year (whether or not the statement is part of an annual report).

2 Subsection 183UA(1) (paragraph (b) of the definition of *special forfeited goods*)

Omit "or (n)", substitute ", (n) or (na)".

3 After paragraph 229(1)(n)

Insert:

- (na) All goods that are the subject of a notice under subsection 112BA(1) and are put on any ship or aircraft for export or are brought to any wharf or place for the purpose of export.

*[Minister's second reading speech made in—
House of Representatives on 2 November 2011
Senate on 22 November 2011]*

(224/11)

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