



Customs Undertakings (Penalties) Act 1981

No. 47 of 1981

An Act to provide for penalties for breaches of undertakings with respect to the importation into Australia of dutiable goods

[Assented to 14 May 1981]

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

Short title

1. This Act may be cited as the *Customs Undertakings (Penalties) Act 1981*.

Commencement

2. This Act shall come into operation on the day on which the *Customs Amendment (Tenders) Act 1981* comes into operation.

Interpretation

3. (1) In this Act, unless the contrary intention appears—
“Customs undertaking” means an undertaking given under sub-section 267 (1) or 268 (2) of the *Customs Act 1901*, and includes such an undertaking as varied;

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“item of a Customs Tariff” and “proposed item of a Customs Tariff” have the same respective meanings as in Part XVI of the *Customs Act 1901*;

“prescribed percentage”, in relation to goods, means the prescribed percentage set out in the Customs undertaking that relates to the goods.

(2) For the purposes of this Act, where a Customs undertaking sets out the value of a unit of the goods to which the undertaking relates, the value of the goods shall be calculated in accordance with that value.

Penalty

4. (1) Subject to sub-section (2), where a person breaches a Customs undertaking given by him, there is payable by that person to the Commonwealth, by way of penalty, an amount equal to the prescribed percentage of the value of the goods to which the undertaking relates.

(2) Where a person who has given a Customs undertaking has, in partial compliance with the undertaking, entered for home consumption under an item, or proposed item, of a Customs Tariff to which the undertaking relates during the year specified in the undertaking goods imported by him, the penalty otherwise applicable under sub-section (1) shall be reduced by an amount that bears to the amount of that penalty the same proportion as—

- (a) where a particular quantity of goods was required to be so entered to comply fully with the undertaking—the quantity of goods so entered bears to that particular quantity; or
- (b) where a quantity of goods of a particular value was required to be so entered to comply fully with the undertaking—the value of the goods so entered bears to that particular value.