

Customs (Prohibited Imports) Regulations (Amendment) 1991 No. 289

EXPLANATORY STATEMENT

STATUTORY RULES 1991 No. 289

CUSTOMS ACT 1901

CUSTOMS (PROHIBITED IMPORTS) REGULATIONS (AMENDMENT)

ISSUED BY THE AUTHORITY OF THE MINISTER OF STATE FOR SMALL BUSINESS AND CUSTOMS

Section 50 of the Customs Act 1901 provides in part that:

- "1) The Governor-General may, by regulation, prohibit the importation of goods into Australia.
- 2) The power conferred by the last preceding sub-section may be exercised - (c) by prohibiting the importation of goods unless specified conditions or restrictions are complied with.
- 3) Without limiting the generality of paragraph (2)(c), the Regulations - ... (a) may provide that the importation of the goods is prohibited unless a licence, permission, consent or approval to import the goods or a class of goods in which the goods are included has been granted as prescribed by the regulations; and ..."

The Customs (Prohibited Imports) Regulations (the Regulations) control the importation of the goods specified in the various Regulations or the Schedules to the Regulations, by prohibiting importation absolutely, or making importation subject to the permission of a specified person or Minister of State.

The Statutory Rules extend the import controls contained in the Fourth Schedule to the Regulations to cover certain narcotic and psychotropic substances and substances which can be used in their illicit manufacture.

Background

on 16 April 1991 the Government decided that certain amendments be made to the Regulations to aid in the regulation of international trade in certain narcotic substances and psychotropic substances, together with substances which can be used in their illicit manufacture.

The Government decided that import controls be introduced for certain substances used in the illicit manufacture of drugs and which are in Table 1 of the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

- This enables Australia to meet the obligations required of parties by Article 12 of the Convention and thus allow it to ratify the Convention.

The Government also decided that import controls be introduced for certain narcotic drugs and psychotropic substances not currently subject to such controls.

- This enables Australia to meet the obligations required of parties under the Convention on Narcotic Drugs 1961 and the Convention on Psychotropic Substances 1971.

The regulations put into effect the Government's decision as follows:

Regulation 1 provides that the Customs (Prohibited Imports) Regulations are amended as set out in these regulations;

Regulation 2 is a minor technical amendment which omits references to "Regulation 5B" and "Regulation 5C" given their repeal by amendments to the Regulations by SR 23 of 1991, which transferred controls over various therapeutic substances from the Customs (Prohibited Imports) Regulations to the Therapeutic Goods Act 1989 and the Therapeutic Goods Regulations;

Regulation 3 effects a technical drafting change to subparagraph 4A(1A)(a)(v) by replacing "the Fourth Schedule" with "Schedule 4" as a result of Regulation 7 which renames that Schedule;

Regulation 4 effects a minor technical amendment to Regulation 4E by substituting "Schedule 7" for the existing reference to "the Seventh Schedule to these Regulations";

Regulation 5 effects a similar technical drafting change as Regulation 3 to subregulation 5(20), ie. it substitutes "Schedule 4" for "the Fourth Schedule";

Regulation 6 effects a technical drafting change to subregulation 5H(2) by replacing the reference to "the Eighth Schedule" with "Schedule 8" and also reflecting the change in name of the Department of Health, Housing and Community Services;

Regulation 7 effects a technical drafting change to the existing Regulation 7 by substituting "Schedule 5" for "the Fifth Schedule"

Regulation 8 omits the Fourth Schedule to the Regulations and substitutes it with the new Schedule 4 which includes import controls over substances previously specified in the Fourth Schedule and adds new controls over 41 substances as follows:

- import controls over 32 narcotic drugs specified in Schedule 1 to the Single Convention on Narcotic Drugs 1961;
- import controls over 6 psychotropic substances specified in the Convention on Psychotropic Substances 1971;
- import controls over 3 substances which can be used in the illicit manufacture of narcotic drugs and psychotropic substances, being ephedrine, pseudoephedrine and phenyl-2-propanone, which are specified in Table 1 of the 1988 Convention Against Illicit Traffic in Narcotic Substances;
- introduces a new Item 47 which expands the control over the former Item 17 (ie. cocaine) to include the leaf of a plant of the genus Erythroxylon from which cocaine can be extracted; and
- introduces a new Item 154 which gives more precision to the former control over Item 83 (ie. moramide).

Regulation 9 effects a technical drafting change, similar to those in Regulations 3 to 7 (above) by amending the title of the "Fifth Schedule" to "Schedule 5";

Regulation 10 effects a similar drafting change to Schedule 7;

Regulation 11 effects a similar drafting change to Schedule 8; and

Regulation 12 makes a number of amendments to the Regulations to reflect the change in title of the Minister for Community Services and Health to the Minister for Health, Housing and Community Services.