

(3) Sub-sections (2), (3) and (4) of section forty A of this Act apply in relation to goods not entered as required by the last preceding sub-section in the same manner as those sub-sections apply in relation to goods not further entered as required by sub-section (1) of that section.

Constructive
warehousing.
Substituted by
No. 54, 1959,
s. 15.

105. Goods entered for warehousing may, before they have been warehoused in accordance with the entry, be further entered under the last preceding section, and be dealt with in accordance with the further entry, as if they had been so warehoused.

Division 2—King's Warehouses

King's
warehouse.

106. King's warehouses may be appointed by the Minister by *Gazette* notice.

Rent.

107. Rent and charges shall be paid in respect of any goods warehoused in any King's warehouse according to such scale as may be prescribed.

Section 108
repealed by
No. 48, 1963,
s. 11.

* * * * *

Power to sell.

109. If any goods warehoused in a King's warehouse shall not be lawfully removed within six months after warehousing the goods may be sold by the Collector.

Purposes of
King's
warehouses.

110. King's warehouses shall be wholly under the control of the Customs and shall be specially available for the examination of goods and the storage of seized and unclaimed goods but otherwise all the provisions of this Act relating to warehouses shall so far as practicable apply to King's warehouses.

PART VI—THE EXPORTATION OF GOODS

Section 111
repealed by
No. 108, 1952,
s. 9.

* * * * *

Prohibited
exports.

Substituted by
No. 56, 1951,
s. 5.

112. (1) The Governor-General may, by regulation, prohibit the exportation of goods from Australia.

(2) The power conferred by the last preceding sub-section may be exercised—

- (a) by prohibiting the exportation of goods absolutely;
- (b) by prohibiting the exportation of goods to a specified place; or
- (c) by prohibiting the exportation of goods unless prescribed conditions or restrictions are complied with.

(3) Goods the exportation of which is prohibited under this section are prohibited exports.

* * * * *

Section 112A
repealed by
No. 56, 1951,
s. 6.

113. Except by the permission of the Collector no goods subject to the control of the Customs shall be exported in any ship of less than fifty tons gross register.

Penalty: Five hundred dollars.

Size of
exporting
vessel.

Amended by
No. 28, 1966,
s. 4; and No. 54,
1967, s. 10.

114. (1) Subject to this Act, the owner of goods intended for export shall enter the goods for export—

Entry of
goods for
export.

Substituted by
No. 104, 1968,
s. 22.

(a) in the case of dutiable goods—before the goods are taken on board the ship or aircraft in which they are to be exported; or

(b) in any other case—not later than three days after a Certificate of Clearance has been granted to the master of the ship, or the pilot of the aircraft, in which the goods are to be exported.

(2) The last preceding sub-section does not apply in relation to goods which, under the regulations, are exempt from this section.

(3) The regulations may require the person who exports goods which, under the regulations, are exempt from this section to furnish in writing to a Collector, within the prescribed period after the goods are exported, such information in respect of the goods as is prescribed.

114A. (1) The true character of any arms, explosives, or naval or military stores entered for export or transshipment shall be clearly shown in the entry made in relation to the goods.

Entries in
regard to
arms,
explosives,
&c.

Inserted by
No. 12, 1923,
s. 19.

Sub-section (1)
amended by
No. 28, 1966,
s. 4; and
No. 54, 1967,
s. 10.

Penalty: Five hundred dollars.

(2) This section shall not apply to arms, explosives, or naval or military stores the property of the Commonwealth or of the Imperial Government.

* * * * *

Section 115
repealed by
No. 104, 1968,
s. 23.

116. If any goods entered for export are not shipped according to the entry—

Short-shipped
goods.

Amended by
No. 12, 1923,
s. 2; No. 28,
1966, s. 4; and
No. 54, 1967,
s. 10.

(1) The owner shall immediately report the fact to the officer and amend his entry for the goods not later than three days after the clearance of the ship or aircraft.

(2) The goods if dutiable shall forthwith be warehoused.

Penalty: One hundred dollars.

**Documents
and security.**

117. The Collector may require the owner to produce documents for any goods entered for export, and in the case of goods subject to the control of the Customs to give security that the same will be landed at the place for which they are entered or otherwise accounted for to the satisfaction of the Collector.

**Certificate of
clearance.**

Amended by
No. 12, 1923,
s. 2; No. 108,
1952, s. 20;
No. 28, 1966,
s. 4; and No. 54,
1967, s. 10.

118. The master of any ship or the pilot of any aircraft shall not depart with his ship or aircraft from any port or airport without receiving from the Collector a Certificate of Clearance.

Penalty: Five hundred dollars.

**Requisites
for obtaining
clearance.**

Substituted by
No. 12, 1923,
s. 20.
Sub-section (1)
amended by
No. 48, 1963,
s. 12.

119. (1) Before any Certificate of Clearance is granted to a ship or aircraft—

- (a) the master owner or pilot shall deliver to the Collector an Outward Manifest in accordance with the prescribed form;
- (b) the master and owner of the ship or the pilot and owner of the aircraft shall severally answer questions relating to the ship or aircraft and her cargo, crew, passengers, stores and voyage; and
- (c) the master and owner or the pilot and owner shall severally produce documents relating to the ship or aircraft and her cargo.

Amended by
No. 48, 1963,
s. 12.

(2) If, within a period of twenty-four hours after the provisions of sub-section (1) of this section have been complied with, the master or pilot has not received from the Collector a Certificate of Clearance, he may, at any time within fourteen days after the expiration of that period, apply to the Minister for a Certificate of Clearance, and the decision of the Minister upon the application shall be final and conclusive.

(3) Where, in pursuance of the last preceding sub-section, the Minister has decided not to grant a Certificate of Clearance, the owner of the ship or aircraft shall be entitled, in a Court of competent jurisdiction, to recover damages against the Commonwealth in respect of the non-granting, or delay in granting, of the Certificate, if the Court is satisfied that the non-granting or delay was without reasonable and probable cause.

(4) Except as provided in the last preceding sub-section no action or other proceeding shall lie against the Commonwealth, or any officer of the Commonwealth, by reason of the non-granting of any Certificate of Clearance, or of any delay in the granting of a Certificate of Clearance.

120. The master of a ship or the pilot of an aircraft shall not suffer to be taken on board his ship or aircraft any goods other than—

- (a) goods which are specified or referred to in the Outward Manifest;
- (b) passengers' baggage;
- (c) stores in respect of which the approval of a Collector has been granted under section one hundred and twenty-nine of this Act; or
- (d) ballast as approved by the Collector.

Penalty: Two hundred and fifty dollars.

Shipment of goods.

Substituted by No. 54, 1959, s. 18; amended by No. 28, 1966, s. 4; No. 54, 1967, s. 10; and No. 104, 1968, s. 24.

* * * * *

Section 121 repealed by No. 111, 1960, s. 6.

122. Except as prescribed, no Certificate of Clearance shall be granted for any ship or aircraft unless all her inward cargo and stores shall have been duly accounted for to the satisfaction of the Collector nor unless all the other requirements of the law in regard to such ship or aircraft and her inward and outward cargo have been duly complied with.

Time of clearance.

Amended by No. 12, 1923, s. 2; and No. 108, 1952, s. 10.

123. (1) The master of every ship departing from any port shall bring his ship to at a boarding station appointed for the port and by all reasonable means facilitate boarding by the officer, and shall not depart with his ship from any port with any officer on board such ship in the discharge of his duty without the consent of such officer.

Ship to bring to and aircraft to stop at boarding stations.

Sub-section (1) amended by No. 48, 1963, s. 13; No. 28, 1966, s. 4; and No. 54, 1967, s. 10.

Penalty: Five hundred dollars.

(2) The pilot of every aircraft departing from any airport shall bring his aircraft to a boarding station appointed for the port or airport, and by all reasonable means facilitate boarding by the officer, and shall not depart with his aircraft from any port or airport with any officer on board such aircraft without the consent of such officer.

Added by No. 12, 1923, s. 21; amended by No. 108, 1952, s. 20; No. 48, 1963, s. 13; No. 28, 1966, s. 4; and No. 54, 1967, s. 10.

Penalty: Five hundred dollars.

124. The master of every ship and the pilot of every aircraft after clearance shall—

Master or pilot to account for missing goods.

Amended by No. 12, 1923, s. 2; No. 28, 1966, s. 4; and No. 54, 1967, s. 10.

- (a) On demand by an officer produce the Certificate of Clearance;
- (b) Account to the satisfaction of the Collector for any goods specified or referred to in the Outward Manifest and not on board his ship or aircraft.

Penalty: Two hundred and fifty dollars.

Goods exported to be landed at proper destination.

Amended by No. 28, 1966, s. 4; and No. 54, 1967, s. 10.

125. No goods shipped for export shall be unshipped or landed without the permission of the Collector except in parts beyond the seas.

Penalty: Two hundred and fifty dollars.

Certificate of landing.

126. If required by the Comptroller a certificate in such form and to be given by such person as may be prescribed shall be produced in proof of the due landing according to the export entry of any goods subject to the control of the Customs, and the Collector may refuse to allow any other goods subject to the control of the Customs to be exported by any person who fails within a reasonable time to produce such certificate of the landing of any such goods previously exported by him or to account for such goods to the satisfaction of the Collector.

Part VII substituted by No. 108, 1952, s. 11.

PART VII—SHIPS' STORES AND AIRCRAFT'S STORES

Use of ships' and aircraft's stores.

Substituted by No. 108, 1952, s. 11; amended by No. 104, 1968, s. 25.

127. Ships' stores and aircraft's stores, whether shipped in parts beyond the seas or in the Commonwealth—

- (a) shall not be unshipped or unloaded without the consent of the Collector; and
- (b) shall not, except with the consent of the Collector, be used before the departure of the ship or aircraft from its last port of departure in the Commonwealth otherwise than for the use of the passengers or crew, or for the service, of the ship or aircraft.

Unshipment of ships' and aircraft's stores.

Substituted by No. 108, 1952, s. 11.

128. Ships' stores and aircraft's stores which are unshipped or unloaded with the consent of the Collector shall be entered—

- (a) for home consumption;
- (b) for warehousing; or
- (c) for transshipment to another ship or aircraft.

Ships' and aircraft's stores not to be taken on board without approval.

Substituted by No. 104, 1968, s. 26.

129. (1) The master or owner of a ship or the pilot or owner of an aircraft may make application to a Collector for the approval of the Collector to take ship's stores or aircraft's stores on board the ship or aircraft and the Collector may grant to the master, pilot or owner of the ship or aircraft approval to take on board such ship's stores or such aircraft's stores as the Collector, having regard to the voyage or flight to be undertaken by the ship or aircraft and to the number of passengers and crew to be carried, determines.

(2) Approval under the last preceding sub-section may be granted subject to the condition that the person to whom the approval is granted complies with such requirements as are specified in the approval, being requirements that, in the opinion of the Collector, are necessary for the

protection of the revenue of the Customs or for the purpose of ensuring compliance with the Customs Act.

(3) If, in relation to any goods, a person to whom an approval has been granted under sub-section (1) of this section fails to comply with a requirement specified in the approval—

- (a) he is guilty of an offence against this Act punishable, upon conviction, by a penalty not exceeding One thousand dollars; and
- (b) if he failed to comply with a requirement before the goods were placed on board the ship or aircraft—the removal of the goods for the purpose of placing the goods on board the ship or aircraft shall, for the purposes of paragraph (g) of section two hundred and twenty-nine of this Act, be deemed not to have been authorized by this Act.

(4) Ship's stores or aircraft's stores taken on board a ship or aircraft otherwise than in accordance with an approval granted under sub-section (1) of this section shall, notwithstanding that the goods are taken on board by authority of an entry under this Act, be deemed, for the purposes of this Act, to be prohibited exports.

130. Except as provided by the regulations, ship's stores and aircraft's stores are not liable to duties of Customs.

Ship's and aircraft's stores exempt from duty.
Substituted by No. 104, 1968, s. 26.

130A. Goods consisting of ship's stores or aircraft's stores, other than goods of a prescribed kind, may be taken on board a ship or aircraft in accordance with an approval granted under section one hundred and twenty-nine of this Act notwithstanding that an entry has not been made and passed in respect of the goods authorizing the removal of the goods to the ship or aircraft and duty has not been paid on the goods.

Entry not required for ship's or aircraft's stores.
Substituted by No. 104, 1968, s. 26.

130B. (1) Where duty is payable on goods taken on board a ship as ship's stores, or on board an aircraft as aircraft's stores, in accordance with an approval granted under section one hundred and twenty-nine of this Act without duty having been paid on the goods, the duty shall, on demand for payment of the duty being made by a Collector to the master or owner of the ship or to the pilot or owner of the aircraft, be paid as if the goods had been entered for home consumption on the day on which the demand was made.

Payment of duty on ship's or aircraft's stores.
Substituted by No. 104, 1968, s. 26.

(2) The owner of a ship or aircraft or, if so directed by an officer, the master of a ship or the pilot of an aircraft, shall, immediately before the departure of the ship or aircraft from Australia and whenever so directed by an officer, furnish to a Collector, in accordance with the prescribed form, a return relating to the ship's stores of the ship or the aircraft's

stores of the aircraft and to goods taken on board the ship as ship's stores or on board the aircraft as aircraft's stores.

Definitions.

Inserted by
No. 104, 1968,
s. 26.

130C. In this Part—

“aircraft” does not include a coasting aircraft;

“aircraft's stores” means stores for the use of the passengers or crew of an aircraft, or for the service of an aircraft;

“ship” does not include a coasting ship;

“ship's stores” means stores for the use of the passengers or crew of a ship, or for the service of a ship.

PART VIII—THE DUTIES

Division 1—The Payment and Computation of Duties generally

Section 131
repealed by
No. 29, 1965,
s. 5.

* * * * *

Fish caught
by
Australian
vessels.

Inserted by
No. 7, 1934,
s. 11.
Sub-section (1)
amended by
No. 162, 1973,
s. 3.

131A. (1) Fish and other goods the produce of the sea which are caught or gathered by a vessel which—

(a) is registered in Australia, and

(b) was fitted out for the voyage during which those fish or goods were caught or gathered at a port or place in Australia,

shall not, when brought into Australia by that vessel, or by a tender (which is registered in Australia) of that vessel, be liable to any duty of Customs, or, subject to sub-section (2), be subject to the control of the Customs.

Added by
No. 162, 1973,
s. 3.

(2) Sub-section (1) does not exclude fish or other goods the produce of the sea specified in the Convention on International Trade in endangered species of wild fauna and flora from the control of Customs where the importation into Australia of the fish or other goods, as the case may be, is prohibited, either absolutely or otherwise, by the regulations. The regulations shall specify those species of wild fauna and flora which are applicable to the provisions of the Convention on International Trade in endangered species of wild fauna and flora.

Rate of
import duty.
Substituted by
No. 48, 1963,
s. 17.

132. (1) Subject to this section, the rate of any import duty payable on goods is the rate of the duty in force when the goods are entered for home consumption.

(2) Where goods are entered for home consumption more than once before import duty is paid on them, the rate at which the import duty is payable is the rate of the duty in force when the goods were first entered for home consumption.

(3) For the purposes of this section, where an entry for home consumption in respect of goods is withdrawn under sub-section (2) of section thirty-seven of this Act and the goods are subsequently entered for warehousing or for removal to a specified place, the entry for home consumption shall be disregarded.

132A. Where, before goods are entered for home consumption, an amount is paid to a Collector in respect of duty that may become payable in respect of the goods, the amount shall, upon the goods being entered for home consumption, be deemed, for the purposes of this Act, to be an amount of duty paid in respect of the goods.

Prepayment of duty.
Inserted by
No. 104, 1968,
s. 27.

133. All export duties shall be finally payable at the rate in force when the goods are actually exported but in the first instance payment shall be made by the owner to the Collector at the rate in force when the goods are entered for export.

Export duties.

134. Where duties are imposed according to weight or measure the weight or measurement of the goods shall be ascertained according to the standard weights and measures by law established.

Weights and measures.

135. Where duties are imposed according to a specified quantity weight size or value the duties shall apply in proportion to any greater or lesser quantity, weight, size or value.

Proportion.

136. Whenever goods are sold or prepared for sale as or are reputed to be of a size or quantity greater than their actual size or quantity duties shall be charged according to such first-mentioned size or quantity.

Duty how fixed.

* * * * *

Section 137 repealed by
No. 12, 1971,
s. 3; sections 138,
139 and 140
repealed by
No. 29, 1965,
s. 6; section 141
repealed by
No. 28, 1966,
s. 3.

142. Goods charged with duty by measurement shall at the expense of the owner be heaped piled sorted framed or otherwise placed in such manner as the Collector may require to enable measurement and account thereof to be taken; and in all cases where the same are measured in bulk the measurement shall be taken to the full extent of the heap or pile.

Measurement for duty.

143. Goods exported to Australia from any country but passing through another country shall be valued for duty as if they were imported directly from such first mentioned country.

Goods in transitu.

Section 144
repealed by
No. 29, 1965,
s. 7.

* * * * *

Value of
goods sold.

145. When the duty on any goods sold at any Collector's sale shall be *ad valorem* the value of such goods shall if approved by the Collector be taken to be the value as shown by the sale.

Strength of
spirits.

146. The strength of spirits may be ascertained for the purposes of duty by means of a hydrometer approved by the Comptroller.

Obscuration.

147. If in the opinion of the Collector the strength of any spirits cannot immediately be accurately ascertained by hydrometer the strength may be ascertained after distillation or in any prescribed manner.

Derelict
goods
dutiable.

148. All goods derelict flotsam jetsam or lagan or landed saved or coming ashore from any wreck or sold as droits of Admiralty shall be charged with duty as if imported in the ordinary course.

As to
payment of
duty on
goods in
manifest but
not produced
or landed.

149. If any dutiable goods which are included in the report of any ship or aircraft shall not be produced to the officer the master or owner of the ship or the pilot or owner of the aircraft shall on demand by the Collector pay the duty thereon as estimated by the Collector unless the goods are accounted for to the satisfaction of the Collector.

Amended by
No. 12, 1923,
s. 2.

Samples.

Amended by
No. 104, 1968,
s. 28.

150. Small samples of the bulk of any goods subject to the control of the Customs may, with the approval of a Collector, be delivered free of duty.

When goods
deemed to
be the
produce or
manufacture
of a country.

151. (1) For the purposes of this Act and the *Customs Tariff* 1966 (other than section twenty of the last-mentioned Act), goods shall be treated as the produce of a country if they are unmanufactured raw products of the country.

Substituted by
No. 82, 1965,
s. 4.
Sub-section (1)
amended by
No. 133, 1965,
ss. 3 and 8.

Amended by
No. 133, 1965,
ss. 3 and 8; and
No. 104, 1968,
s. 29.

(2) For the purposes of this Act and the *Customs Tariff* 1966 (other than section twenty, or a direction under section thirty-three C, of the last-mentioned Act), goods shall be treated as the manufacture of a country—

(a) if the goods were wholly manufactured in the country from materials of one or more of the following classes:—

- (i) unmanufactured raw products;
- (ii) materials wholly manufactured in the country or in Australia, or in the country and in Australia; and

- (iii) imported materials that the Minister has, in relation to the country, determined, by notice published in the *Gazette*, to be manufactured raw materials; or
- (b) if the goods were partly manufactured in the country, the process last performed in the manufacture of the goods was performed in the country and—
 - (i) not less than three-quarters, or, in a case where the country is New Zealand, one-half, of the factory or works cost of the goods is represented by the value of labour or materials, or of labour and materials, of the country or of the country and Australia;
 - (ii) in a case where the goods are goods of a class or kind not commercially manufactured in Australia, not less than one-quarter of the factory or works cost of the goods is represented by the value of labour or materials, or of labour and materials, of the country or of the country and Australia; or
 - (iii) in a case where the country is New Zealand, not less than three-quarters of the factory or works cost of the goods is represented by the value of labour or materials, or of labour and materials, of New Zealand and the United Kingdom or of New Zealand, Australia and the United Kingdom.

(3) For the purposes of a direction under section thirty-three C of the *Customs Tariff* 1966, goods shall be treated as the manufacture of a country if—

Amended by
No. 133, 1965,
s. 8; and
No. 104, 1968,
s. 29.

- (a) the process last performed in the manufacture of the goods was performed in the country; and
- (b) not less than one-half of the factory or works cost of the goods is represented by the value of labour or materials, or of labour and materials, of the country or of the country and one or more of the following countries, that is to say, Australia and countries that, at the time the goods are entered for home consumption, are less developed countries, other than a country that, by virtue of a direction under sub-section (2) of section eleven of the *Customs Tariff* 1966, is not to be treated as a less developed country in relation to the class of goods in which the goods are included.

(4) For the purposes of the last two preceding sub-sections, the Minister may, by notice published in the *Gazette*—

- (a) specify the manner in which the factory or works cost of goods is to be determined; and
- (b) specify the manner in which the value of labour, the value of materials or the value of labour and materials is to be determined.

(5) For the purposes of sub-paragraph (ii) of paragraph (b) of sub-section (2) of this section, the Minister may, by notice published in the *Gazette*, determine that goods specified in the notice, or goods included in a class of goods so specified, shall be deemed to be goods of a class or kind not commercially manufactured in Australia.

(6) The Minister may, by notice published in the *Gazette*, determine that the reference in sub-paragraph (ii) of paragraph (b) of sub-section (2) of this section to one-quarter shall, in relation to goods specified in the notice, or goods included in a class of goods so specified, be read as a reference to one-half.

(7) For the purposes of sub-paragraph (iii) of paragraph (b) of sub-section (2) of this section, material that, under the laws of New Zealand relating to duties of Customs, is treated as having been wholly produced or manufactured in the United Kingdom shall be deemed to be material of the United Kingdom.

Amended by
No. 133, 1965,
ss. 3 and 8; and
No. 104, 1968,
s. 29.

(8) Notwithstanding anything contained in this section—

- (a) the Minister may, subject to the next succeeding paragraph, direct that, for the purposes of this Act and the *Customs Tariff* 1966 (other than section twenty, or a direction under section thirty-three C, of the last-mentioned Act), a cinematograph film that is, under the laws of the United Kingdom relating to the registration of cinematograph films, certified by the Board of Trade of the United Kingdom to be registered as a British film shall be treated as the manufacture of the United Kingdom; and
- (b) a cinematograph film printed in the United Kingdom shall not, for the purposes of this Act or the *Customs Tariff* 1966 (other than section twenty, or a direction under section thirty-three C, of the last-mentioned Act), be treated as the manufacture of the United Kingdom unless it was printed from a negative the manufacture of the United Kingdom.

(9) This section does not apply for the purposes of determining whether the goods are the produce, or the manufacture, of Australia.

(10) In this section, “unmanufactured raw products” means natural or primary products that have not been subjected to an industrial process, other than an ordinary process of primary production, and includes, without limiting the generality of the foregoing—

- (a) animals, and parts of animals obtained by killing, including bones, hides and skins (raw or sun-dried);
- (b) greasy wool;
- (c) plants, and parts of plants, including raw cotton, bark, fruit, nuts, grain, seeds (in their natural state) and unwrought logs;
- (d) minerals in their natural state and ores; and
- (e) crude petroleum.

151A. (1) For the purposes of this Act and the *Customs Tariff* 1966 (other than section twenty, or a direction under section thirty-three C, of the last-mentioned Act), goods shall not be treated as the produce or manufacture of the United Kingdom, Canada, New Zealand, Ireland, Malawi, Southern Rhodesia, Zambia, the Territory of Papua or the Territory of New Guinea unless they have been shipped from that country to Australia and, except where the Collector is satisfied that the intended destination of the goods when originally shipped from that country was Australia, have not been transhipped.

Direct shipment to Australia required for certain preferences.

Substituted by No. 82, 1965, s. 4.

Sub-section (1) amended by No. 133, 1965, ss. 4 and 8; and No. 104, 1968, s. 30.

(2) The last preceding sub-section does not apply—

- (a) to goods the produce or manufacture of a country other than New Zealand that are imported into Australia from New Zealand; or
- (b) to goods the produce or manufacture of a country other than the Territory of Papua or the Territory of New Guinea that are imported into Australia from the Territory of Papua or the Territory of New Guinea.

(3) For the purposes of a direction under section thirty-three C of the *Customs Tariff* 1966, goods shall not be treated as the produce or manufacture of a country unless they have been shipped from that country to Australia and, except where the Collector is satisfied that the intended destination of the goods when originally shipped from that country was Australia, have not been transhipped.

Amended by No. 133, 1965, s. 8; and No. 104, 1968, s. 30.

(4) For the purposes of this section—

- (a) goods may be treated as having been shipped from the Territory of Papua or the Territory of New Guinea if they have been shipped from either of those territories; and
- (b) goods may be treated as having been shipped from Malawi, Southern Rhodesia or Zambia if they have been shipped from any of those countries or from Lourenco Marques or Beira in Mozambique.

152. If after any agreement is made for the sale or delivery of goods duty paid any alteration takes place in the duty collected affecting such goods before they are entered for home consumption, or for export, as the case may be, then in the absence of express written provision to the contrary the agreement shall be altered as follows:—

Alteration of agreements where duty altered.

Amended by No. 56, 1950, s. 4.

- (a) In the event of the alteration being a new or increased duty the seller after payment of the new or increased duty may add the difference caused by the alteration to the agreed price.
- (b) In the event of the alteration being the abolition or reduction of duty the purchaser may deduct the difference caused by the alteration from the agreed price.

- (c) Any refund or payment of increased duty resulting from the alteration not being finally adopted shall be allowed between the parties as the case may require.

Recovery of duties.

153. All duties shall constitute Crown debts charged upon the goods in respect of which the same are payable and payable by the owner of the goods and recoverable at any time in any court of competent jurisdiction by proceedings in the name of the Collector.

Division 2—Ad Valorem Duties

Value for duty.

Substituted by No. 29, 1965, s. 9; amended by No. 133, 1965, s. 5.

153A. The value of any imported goods for the purposes of the *Customs Tariff* 1966 is, unless the contrary intention appears, the value for duty of the goods ascertained or determined in accordance with this Division.

Value for duty, how ascertained.

Substituted by No. 19, 1922, s. 2.
Sub-section (1) amended by No. 54, 1947, s. 4; and No. 29, 1965, s. 10.

154. (1) The value for duty of any goods shall be the sum of the following:—

- (a) (i) the actual money price paid or to be paid for the goods by the Australian importer plus any special deduction, or
 - (ii) the current domestic value of the goods,
- whichever is the higher; and
- (b) all charges payable or ordinarily payable for placing the goods free on board at the port of export.

(2) In the case of goods consigned for sale in Australia the value for duty shall be the amount which would be the value for duty if the goods were at date of exportation sold to an Australian importer instead of being consigned for sale in Australia.

(3) In this section—

“Current domestic value” means the amount for which the seller of the goods to the purchaser in Australia is selling or would be prepared to sell for cash, at the date of exportation of those goods, the same quantity of identically similar goods to any and every purchaser in the country of export for consumption in that country; and

“Special deduction” means any discount or other deduction allowed to the Australian importer which would not ordinarily have been allowed to any and every purchaser at the date of exportation of an equal quantity of identically similar goods.

155. In ascertaining the value for duty under the last preceding section of goods that are the produce or manufacture of Canada, the amount included in the value for duty in respect of inland freight charges incurred in Canada shall not be greater than the amount of freight charges that would have been incurred in Canada if the goods had been forwarded from the place of origin of the goods to the nearest point of exit in Canada.

Inland freight charges on Canadian goods.

Inserted by No. 29, 1965, s. 11.

* * * * *

Section 156 repealed by No. 54, 1959, s. 20.

157. (1) Where any amount which is, under any other provision of this Act, required to be taken into account for the purpose of ascertaining the value for duty of any goods is not an amount in Australian currency, the amount to be so taken into account shall be the equivalent in Australian currency of that amount, ascertained according to a fair rate of exchange at the date of exportation of the goods.

Value for duty to be in Australian currency.

Substituted by No. 54, 1947, s. 5.

(2) For the purposes of this section, the Minister may, where he considers it desirable so to do for the avoidance of doubt, specify, by notice published in the *Gazette*, a rate which is to be deemed to be, or to have been, a fair rate of exchange in relation to any currency—

- (a) on a date, or during a period, preceding the date of publication of the notice; or
- (b) from the date of publication of the notice, or an earlier date specified in the notice, until the revocation of the notice.

(3) The rate of exchange specified in relation to any currency in pursuance of the last preceding sub-section shall, in relation to the value for duty of any goods exported on the date or during the period to which the rate so specified applies, be the rate of exchange which shall be applied for the purposes of sub-section (1) of this section in respect of the currency specified in the notice.

(4) In any case in which the rate of exchange to be applied is not ascertained by virtue of the last preceding sub-section, and in which doubt exists as to that rate, the Minister may specify a fair rate of exchange to be applied for the purposes of the particular case.

* * * * *

Sections 157A-157F repealed by No. 12, 1923, s. 3.

158. Whenever the Collector has a doubt as to the accuracy of the declared value of dutiable goods he may detain such goods and assess the value thereof.

Value may be assessed.

Should the owner object to the value so assessed he may request that the value may be ascertained by experts in manner prescribed.

Should the owner refuse to pay the duty as assessed by the Collector or ascertained by experts the Collector may sell the goods.

The provisions of this section shall not apply in cases where the Minister is of opinion that any evasion of this Act has been committed or attempted.

Blank
invoices.

Amended by
No. 28, 1966,
s. 4; and No. 54,
1967, s. 10.

159. No person shall send or bring into Australia or have in his possession without reasonable excuse any blank or partly blank invoice form capable of being filled up and used as a genuine invoice.

Penalty: One thousand dollars.

Minister to
determine
value in
some cases.

Amended by
No. 29, 1965,
s. 12.

160. Whenever it is difficult to determine the value for duty of any goods, either because the goods are not sold for use or consumption in the country of production or because a lease of the goods or the right of using the same is sold or given but not the right of property therein, or because the goods have a royalty imposed thereon and the royalty is uncertain or is not a reliable means of estimating the value of the goods, or because the goods are usually or exclusively sold by or to agents or by subscription or are sold or imported in or under any other unusual or peculiar manner or conditions (of all which matters the Minister shall be judge) the Minister may determine the value for duty of the goods.

Customs
may take
goods on
paying the
declared
value plus 10
per cent.

Sub-section (1)
amended by
No. 133, 1965,
s. 6.

161. (1) For the protection of the revenue against the undervaluation of goods subject to *ad valorem* duties any goods entered as of a specified value may at any time before sale and delivery to a person who shall prove to the satisfaction of the Collector that he purchased and took delivery in good faith and without any knowledge of the entry and subject as may be prescribed be purchased by the Customs at their declared value with an addition of Ten per centum on the amount of such value.

(2) The purchase shall be effected by the seizure of the goods by an officer and written notice of the seizure given to the owner.

(3) The officer shall remove the goods to a warehouse or some place of security, and the owner shall thereupon be entitled to the purchase money.

Amended by
No. 216, 1973,
s. 3.

(4) The goods shall become the property of the Crown immediately on seizure, and shall afterwards be disposed of as may be prescribed or as the Collector may direct.

(5) A refund in whole or in part of any duty paid on the goods may be made by the Collector.

(6) This section shall not limit or restrict any other power possessed by the Customs relating to the goods.

Division 3—Deposits, Abatements, Remissions, and Refunds of Duties

162. (1) Where goods the property of a person included in a prescribed class of persons are imported or a person imports goods included in a prescribed class or goods intended for a prescribed purpose and intends to export those goods, the Collector may grant to the person importing the goods permission to take delivery of those goods upon giving a security or an undertaking, to the satisfaction of the Collector, for the payment of the duty on those goods.

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

Substituted by No. 108, 1952, s. 12.

(2) The regulations may prescribe provisions to be complied with in relation to goods in respect of which permission has been granted under the last preceding sub-section.

(3) Where the Collector has granted permission to a person to take delivery of goods upon giving a security or an undertaking referred to in sub-section (1) of this section, the duty is not payable if—

- (a) the provisions of the regulations are complied with; and
- (b) the goods are exported within a period of twelve months after the date on which the goods were imported or within such further period as the Minister, on the application of the person who imported the goods, allows,

and, if security was given by way of deposit of cash or of an instrument transferable by delivery, the amount deposited or the instrument shall be returned to the person by whom the security was given.

(4) Where the regulations are not complied with or the goods are not exported from Australia within that period of twelve months or that further period allowed by the Minister, the security may be enforced according to its tenor or, where an undertaking to pay the amount of the duty has been given, that amount may be recovered at any time in a court of competent jurisdiction by proceedings in the name of the Collector.

162A. (1) The regulations may provide that—

- (a) goods of a specified class;
- (b) goods imported by persons of a specified class;
- (c) goods of a specified class imported by persons of a specified class; or
- (d) goods imported for a specified purpose,

may, in accordance with this section, be brought into Australia on a temporary basis without payment of duty.

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

Inserted by No. 48, 1963, s. 18.

(2) The Comptroller may accept a security given by a person for the payment of, or an undertaking by a person to pay, any duty that may become payable on goods to which the security or undertaking relates, being goods in relation to which regulations under the last preceding sub-section apply, that may be imported after a particular date or during

a particular period and, where the Comptroller has accepted such security or undertaking, a Collector may grant to a person who imports goods to which the security or undertaking relates permission to take delivery of those goods without payment of duty.

(3) Goods delivered under this section shall, for the purposes of this Act, be deemed to be entered for home consumption on being so delivered.

(4) The regulations may prohibit a person to whom goods are delivered under this section from dealing with the goods in a manner, or in a manner other than a manner, specified in the regulations, or from so dealing with the goods except with the consent of the Comptroller.

(5) Duty is not payable on goods delivered under this section unless—

- (a) the goods have been dealt with in contravention of the regulations; or
- (b) the goods are not exported within such period, not exceeding twelve months, after the date on which the goods were imported as is notified to the person who imported the goods by the Collector when he grants permission to take delivery of the goods, or within such further period as the Minister, on the application of the person who imported the goods and of the person who gave the security or undertaking with respect to the goods, allows.

(6) A Collector may give permission for goods delivered under this section to be taken on board a ship or aircraft for export and, on permission being so given, the goods shall, for the purposes of this Act, be deemed to be entered for export.

(7) Where security under this section is given by way of a payment of money or a deposit of an instrument transferable by delivery, the money shall not be repaid or the instrument shall not be returned, as the case may be, until no duty is, or may become, payable on any goods to which the security relates that have been imported.

(8) Where goods have been dealt with in contravention of the regulations or goods are not exported from Australia within the period notified under paragraph (b) of sub-section (5) of this section or within such further period as is allowed by the Minister under that paragraph, a security in respect of the goods may be enforced according to its tenor or, where an undertaking to pay the amount of the duty on the goods has been given, that amount may be recovered at any time in a court of competent jurisdiction by proceedings in the name of the Comptroller or the Collector of Customs for a State or Territory.

162B. (1) Where pallets are delivered under the last preceding section and it would be a contravention of the Convention by the Commonwealth to collect duty on the pallets, duty is not payable on the pallets.

Pallets used in international transport.

Inserted by No. 104, 1968, s. 31.

(2) Where pallets are to be exported and it would be a contravention of the Convention by the Commonwealth to require the goods to be entered for export, the pallets may be exported without being entered for export.

(3) This section is in addition to, and not in derogation of, the provisions of sub-sections (5) and (6) of the last preceding section.

(4) In this section—

“pallet” has the same meaning as in the Convention;

“the Convention” means the European Convention on Customs Treatment of Pallets used in International Transport signed at Geneva on the ninth day of December, One thousand nine hundred and sixty, as affected by any amendment of the Convention that has come into force.

163. (1) Refunds, rebates and remissions of duty may be made—

Refunds, &c., of duty.
Substituted by No. 12, 1971, s. 4.

(a) in respect of goods generally or in respect of the goods included in a class of goods; and

(b) in such circumstances, and subject to such conditions and restrictions (if any), as are prescribed, being circumstances, and conditions and restrictions, that relate to goods generally or to the goods included in the class of goods.

(2) In the last preceding sub-section, “duty” includes an amount paid to a Collector in respect of duty that may become payable.

* * * * *

Sections 164 and 164A repealed by No. 12, 1971, s. 4.

164B. Whenever goods in respect of which an export duty of Customs has been paid are re-imported or brought back to Australia, the Minister may direct the refund of so much of the duty paid on those goods as he considers to be justified in the circumstances.

Refunds of export duty.
Inserted by No. 56, 1950, s. 7.

165. (1) When any duty has been short levied or erroneously refunded the person who should have paid the amount short levied or to whom the refund has erroneously been made shall pay the amount short levied or repay the amount erroneously refunded on demand being made by the Collector within twelve months from the date of the short levy or refund.

Short paid duty may be recovered.

(2) For the purposes of the last preceding sub-section, a drawback of duty shall be deemed to be a refund of duty.

Added by No. 104, 1968, s. 33.

No refund if
duty altered.

166. If any practice of the Customs relating to classifying or enumerating any article for duty shall be altered so that less duty is charged upon such article, no person shall thereby become entitled to any refund on account of any duty paid before such alteration.

Division 4—Disputes as to Duty

Dispute as to
amount or
rate of duty.

Substituted by
No. 36, 1910,
s. 5.
Sub-section (1)
amended by
No. 48, 1963,
s. 19.

167. (1) If any dispute arises as to the amount or rate of duty payable in respect of any goods, or as to the liability of any goods to duty, under any Customs Tariff, or under any Customs Tariff or Customs Tariff alteration proposed in the Parliament, the owner of the goods may pay under protest the sum demanded by the Collector as the duty payable in respect of the goods, and thereupon the sum so paid shall, as against the owner of the goods, be deemed to be the proper duty payable in respect of the goods, unless the contrary is determined in an action brought in pursuance of this section.

(2) The owner may, within the times limited in this section, bring an action against the Collector, in any Commonwealth or State Court of competent jurisdiction, for the recovery of the whole or any part of the sum so paid.

Amended by
No. 12, 1923,
s. 25.

(3) A protest in pursuance of this section shall be made by writing on the entry of the goods the words "Paid under protest" and adding a statement of the grounds upon which the protest is made, and, if the entry relates to more than one description of goods, the goods to which the protest applies, followed by the signature of the owner of the goods or his agent.

Amended by
No. 48, 1963,
s. 19.

(4) No action shall lie for the recovery of any sum paid to the Customs as the duty payable in respect of any goods, unless the payment is made under protest in pursuance of this section and the action is commenced within the following times:—

- (a) In case the sum is paid as the duty payable under any Customs Tariff, within six months after the date of the payment; or
- (b) In case the sum is paid as the duty payable under a Customs Tariff or Customs Tariff alteration proposed in the Parliament, within six months after the Act, by which the Customs Tariff or Customs Tariff alteration proposed in the Parliament is made law, is assented to.

(5) Nothing in this section shall affect any rights or powers under section one hundred and sixty-three of this Act.

Sub-section (6)
omitted by
No. 48, 1963,
s. 19.

* * * * *

PART IX—DRAWBACKS

168. The regulations may make provision for and in relation to allowing drawbacks of duty paid on goods imported into Australia.

Drawbacks of import duty.
Substituted by No. 104, 1968, s. 34.

* * * * *

Section 169 repealed by No. 12, 1923, s. 26; sections 170-174 repealed by No. 54, 1959, s. 21.

PART X—THE COASTING TRADE

175. All ships or aircraft trading or plying or going from one port, airport or place in Australia to another port, airport or place therein and not trading plying or going to any other port, airport or place shall be considered as engaged in the coasting trade, and such ships or aircraft shall be deemed to be coasting ships or aircraft for the purposes of any Customs Act.

What are coasting ships and aircraft.
Amended by No. 12, 1923, s. 2; and No. 108, 1952, s. 20.

176. The master of any coasting ship or the pilot of any aircraft shall not suffer any goods to be taken into or put out of his ship or aircraft from or into any other ship at sea or into any other aircraft except with the sanction of the Collector, nor suffer his ship or aircraft to deviate from her voyage unless forced to do so by unavoidable circumstances or under circumstances explained to the satisfaction of the Collector.

Coasters not to take in cargo at sea or deviate.
Amended by No. 12, 1923, s. 2; No. 28, 1966, s. 4; and No. 54, 1967, s. 10.

Penalty: Five hundred dollars.

177. The owner of any ship or aircraft employed in the coasting trade may with the consent of the Collector report such ship or aircraft inwards or outwards in lieu of the master thereof.

Owner may report ship or aircraft.
Amended by No. 12, 1923, s. 2.

Every such owner so reporting shall be subject to the same provisions and liable to the same penalties under the Customs Act as the master of such ship or the pilot of such aircraft.

178. The master or owner of every coasting ship shall at prescribed ports deliver to the Collector as prescribed particulars of all cargo consisting of Australian produce or manufactures then on board his ship.

Account of Australian goods.

Regulation. **179.** The coasting trade generally as regards the Customs shall be regulated in manner prescribed and books shall be kept, documents produced, and entries made accordingly.

PART XI—AGENTS

Division 1—Preliminary

Division 1
inserted by
No. 54, 1959,
s. 22.

Definitions.

Inserted by
No. 54, 1959,
s. 22.

179A. In this part, unless the contrary intention appears—

“Committee” means a Committee of Inquiry established in pursuance of section one hundred and eighty-three D of this Act;

“customs agent” means a person who holds a licence that is in force and, in relation to a place, means a person who holds such a licence to act as a customs agent at that place;

“licence” means a licence to act as a customs agent granted, or deemed to have been granted, under section one hundred and eighty-three A of this Act.

Heading inserted
by No. 54, 1959,
s. 22.

Division 2—Rights and Liabilities of Agents

Authorized agents.

Amended by
No. 54, 1959,
s. 23.

180. Any owner of goods may comply with the provisions of this Act by an agent lawfully authorized and in all places to which this limitation is declared by proclamation to extend such agent shall be either a person exclusively in the employment of the owner or shall be a customs agent.

Authority to be produced.

181. Any officer may require from any agent the production of his written authority from the principal for whom he claims to act, and in default of the production of such authority may refuse to recognize the agency.

Agents personally liable.

182. When any person is expressly or impliedly authorized by the owner to act as his agent in relation to any goods for all or any purposes of any Customs Act or represents or passes himself or acts or assumes to act as such agent such person shall for such purpose be also deemed to be the owner of such goods and shall be personally liable for any penalties recoverable under this Act in the same manner and to the same extent as if he were principal. But nothing herein contained shall be taken to relieve any principal from liability.

Principal liable for agents acting.

183. Any declaration authorized by this Act made by any agent of any person shall be held to have been made with the knowledge and consent of such person, so that in any prosecution in respect of any declaration made by any such agent such person shall be liable only to the pecuniary punishment provided by any Customs Act as if such declaration had been made by himself.

Division 3—Licensing of Customs Agents

Division 3
inserted by
No. 54, 1959,
s. 24.

Licences.
Inserted by
No. 54, 1959,
s. 24.

183A. (1) A person may apply in writing to a Collector for the grant of a licence to act as a customs agent at a place or places specified in the application.

(2) A Collector may refuse an application for a licence if, in his opinion, the applicant is not a fit and proper person to be licensed as a Customs agent.

(3) Before granting or renewing a licence, a Collector may require the applicant or customs agent to give security, to the satisfaction of the Collector and in an amount or to a value not exceeding the prescribed amount, for compliance with the Customs Acts, for compliance with the conditions or requirements to which the importation or exportation of goods is subject and generally for the protection of the revenue of the Customs.

(4) A licence shall be granted for the period commencing on a day specified in the licence and ending on the thirty-first day of December next following that day, but, subject to this Part, may be renewed for successive periods of twelve months.

(5) Whenever the amount or value of the security in force in respect of a customs agent is less than the amount prescribed in respect of the prescribed class of customs agents in which the customs agent is for the time being included, a Collector may, by notice in writing to the customs agent, require the customs agent to give, within such period as is specified in the notice, a fresh security for the purposes of this section in an amount or to a value specified in the notice, being an amount not exceeding the amount so prescribed, and, if the customs agent fails to comply with the notice, a Collector may revoke the licence.

(6) Where a customs agent makes application in writing for the renewal of his licence to a Collector within one month before the date on which the licence is due to expire, the Collector shall renew the licence as from the day after that date, but the renewal of the licence shall not take effect if, on or before that date, the licence is revoked.

(7) Where the licence granted to a customs agent has been suspended, the last preceding sub-section applies as if the licence had not been suspended, but the renewal of the licence does not have any force or effect until the licence ceases to be suspended.

(8) Such fees (if any) as are prescribed are payable in respect of the grant or renewal of a licence.

(9) Regulations made for the purposes of this section may prescribe different amounts or different fees in respect of different classes of applicants or customs agents.

Suspension
or revocation
of licences.

Inserted by
No. 54, 1959,
s. 24.

183B. (1) Where the Comptroller is of opinion that it is desirable that a matter relating to the licensing of a customs agent or the conduct of a customs agent should be investigated by a Committee, the Comptroller shall refer the matter to a Committee for investigation and report to the Minister.

(2) Where a Collector is of opinion that it is desirable that a matter relating to the licensing of a customs agent or the conduct of a customs agent should be investigated by a Committee, he may recommend to the Comptroller that the matter be referred to a Committee for investigation and report to the Minister and, if the Collector considers that it is necessary in the public interest to do so pending that investigation and report, he may suspend the licence of the customs agent.

(3) Subject to the next succeeding sub-section, where a Collector suspends a licence under the last preceding sub-section—

- (a) the Collector shall forthwith give notice of the suspension to the Comptroller;
- (b) the Comptroller shall, upon receipt of that notice, forthwith refer the matter to a Committee for investigation and report to the Minister; and
- (c) the Comptroller may at any time remove the suspension.

(4) Where, upon receipt of a notice under the last preceding sub-section, the Comptroller considers that the suspension is not justified and forthwith removes the suspension, he is not required to refer the matter to a Committee.

(5) A suspension by a Collector under sub-section (2) of this section has effect only until the Minister has dealt with the matter in accordance with the next succeeding sub-section.

(6) Subject to sub-section (8) of this section, the Minister, on receipt of a report from a Committee in relation to a customs agent—

- (a) if the licence granted to the customs agent is not already suspended, may, by notice in writing to the customs agent, suspend the licence for a period specified in the notice, or revoke the licence; and
- (b) if the licence granted to the customs agent is already suspended, shall, by notice in writing to the customs agent, further suspend the licence for a period specified in the notice, revoke the licence or remove the suspension.

(7) The period for which the Minister may suspend or further suspend a licence under the last preceding sub-section may be a period expiring after the date on which the licence, if not renewed, would expire.

(8) The Minister shall not—

- (a) suspend, further suspend or revoke a licence except on a prescribed ground, being a ground which is stated in the report of the Committee to have been established;
- (b) revoke a licence unless the Committee has recommended the revocation of the licence; or
- (c) suspend or further suspend a licence unless the Committee has recommended the revocation of the licence or the suspension or further suspension, as the case may be, of the licence.

(9) For the purposes of the last preceding sub-section, the prescribed grounds are—

Amended by
No. 216, 1973,
s. 3.

- (a) that, since the licence was granted to the customs agent, the customs agent has committed, or attempted to commit, an offence against any of the Customs Acts;
- (b) that, since the licence was granted to the customs agent, the customs agent has been convicted of an offence punishable under a law of the Commonwealth or of a State or Territory by imprisonment for one year or longer;
- (c) that the customs agent is an undischarged bankrupt;
- (d) that the customs agent made a false or misleading statement in his application for the licence; or
- (e) that the customs agent has, in relation to or arising out of the performance of his functions as a customs agent, been guilty of conduct which is an abuse of the rights and privileges arising from his licence or shows him to be unfit to continue to be licensed as a customs agent.

183C. (1) Where, in pursuance of the last preceding section, the Minister suspends, further suspends or revokes the licence granted to a customs agent, the customs agent may appeal to the Supreme Court of the State or Territory in which he resides.

Appeal
against
suspension
or revocation
of licence.

Inserted by
No. 54, 1959,
s. 24.

Sub-section (1)
amended by
No. 216, 1973,
s. 3.

(2) The Supreme Court of each State is invested with federal jurisdiction, and jurisdiction is conferred on the Supreme Court of each Territory, to hear and determine appeals under this section.

Amended by
No. 216, 1973,
s. 3.

(3) The Minister shall be the respondent in the appeal.

(4) An appeal under this section shall be by way of rehearing, but the Court shall have regard, in addition to any other evidence, to the evidence before the Committee and shall also have regard to the report of the Committee.

(5) If the Court is satisfied that a ground specified in sub-section (9) of the last preceding section has been established, it shall dismiss the appeal but may, nevertheless, where it considers it just to do so—

- (a) if the Minister had revoked the licence—order the suspension of the licence instead of its revocation; or
- (b) if the Minister had suspended or further suspended the licence—order the revocation of the licence instead of its suspension or further suspension or order the extension or reduction of the period of suspension imposed by the Minister.

(6) If the Court is not so satisfied, it shall allow the appeal and order the removal of the suspension or the restoration of the licence.

(7) The Court may order either party to pay costs to the other party.

(8) The Jurisdiction conferred by this section is exercisable by a single Judge of the Court, whose decision is final and conclusive.

Division 4—Committees of Inquiry

Division 4
inserted by
No. 54, 1959,
s. 24.

Establish-
ment of
Committee
of Inquiry.

Inserted by
No. 54, 1959,
s. 24.

183D. (1) Whenever the Comptroller is required by section one hundred and eighty-three B of this Act to refer a matter relating to a customs agent to a Committee, he shall appoint a Committee to inquire into, and report to the Minister on, the matter.

(2) The Committee appointed shall consist of—

- (a) a Chairman;
- (b) a person who is employed in the service of the Customs; and
- (c) a person nominated by an organization representing customs agents.

Amended by
No. 216, 1973,
s. 3.

(3) The Chairman of a Committee shall be a person who is or has been a Stipendiary, Police, Special or Resident Magistrate of a State or Territory.

(4) Members of a Committee, other than members who are officers of the Public Service of the Commonwealth, shall be paid such fees and allowances as are prescribed.

Procedure of
Committees.

Inserted by
No. 54, 1959,
s. 24.

183E. The regulations may make provision for and in relation to the procedure of Committees.

Evidence.

Inserted by
No. 54, 1959,
s. 24.

183F. A Committee is not bound by legal rules of evidence but may inform itself on a matter referred to it under this part in such manner as it thinks fit.

183G. The proceedings of a Committee shall be held in private.

Proceedings
in private.

Inserted by
No. 54, 1959,
s. 24.

183H. All questions before a Committee shall be decided according to the opinion of the majority of its members.

Determina-
tion of
questions
before a
Committee.

Inserted by
No. 54, 1959,
s. 24.

183J. (1) The Chairman of a Committee shall cause a notice in writing of the matter referred to the Committee, and of the time and place at which the Committee intends to hold an inquiry into the matter, to be served on the customs agent concerned in the matter at least ten days before the date of the inquiry.

Customs
agent
affected by
inquiry to be
given notice.

Inserted by
No. 54, 1959,
s. 24.

(2) Subject to the next succeeding sub-section, the Committee shall afford the customs agent on whom a notice has been served in pursuance of the last preceding sub-section an opportunity of examining witnesses, of giving evidence and calling witnesses on his behalf and of addressing the Committee.

(3) Where the customs agent on whom notice has been served in pursuance of sub-section (1) of this section fails to attend at the time and place specified in the notice, the Committee may, unless it is satisfied that the customs agent is prevented by illness or other unavoidable cause from so attending, proceed to hold the inquiry in his absence.

183K. (1) The Chairman of a Committee may, by writing under his hand, summon a person to attend before the Committee at a time and place specified in the summons and then and there to give evidence and to produce any books, documents and writings in his custody or control which he is required by the summons to produce.

Summoning
of witnesses.

Inserted by
No. 54, 1959,
s. 24.

(2) A person who has been summoned to attend before a Committee as a witness shall appear and report himself from day to day, unless excused by the Committee.

(3) A Committee may inspect books, documents or writings before it, and may retain them for such reasonable period as it thinks fit, and may make copies of such portions of them as are relevant to the inquiry.

183L. A notice or summons under this Part shall be served by delivering it personally to the person to be served or by sending it by pre-paid registered letter addressed to him at his last known place of abode or business or by leaving it—

Service of
notices and
summons.

Inserted by
No. 54, 1959,
s. 24.

- (a) at his last known place of abode with some person apparently an inmate of that place and apparently not less than sixteen years of age; or

- (b) at his last known place of business with some person apparently employed at that place and apparently not less than sixteen years of age.

Arrest of witness failing to appear.

Inserted by No. 54, 1959, s. 24.

183M. (1) If a person who has been summoned to attend before a Committee fails to attend before the Committee as required by the summons or by sub-section (2) of section one hundred and eighty-three K of this Act, the Chairman of the Committee may, on being satisfied that the summons has been duly served and that a reasonable sum for his expenses of attendance has been paid or tendered to that person, issue a warrant for the apprehension of that person.

(2) A warrant so issued authorizes the apprehension of the person and his being brought before the Committee and his detention in custody for that purpose until he is released by order of the Committee.

(3) A warrant so issued may be executed by a police officer or by any person to whom it is addressed, and the person executing it has power to break and enter any place, building or vessel for the purpose of executing the warrant.

(4) The apprehension of a person under this section does not relieve him from any liability incurred by him by reason of his failure to attend before the Committee.

Committee may examine upon oath or affirmation.

Inserted by No. 54, 1959, s. 24.

183N. (1) A Committee may examine on oath a person appearing as a witness before the Committee, whether the witness has been summoned or appears without being summoned, and for that purpose a member of the Committee may administer an oath to a witness.

(2) Where a witness conscientiously objects to take an oath, he may make an affirmation that he conscientiously objects to take an oath and that he will state the truth, the whole truth and nothing but the truth to all questions that are asked him.

(3) An affirmation so made is of the same force and effect, and entails the same liabilities, as an oath.

Offences by witnesses.

Inserted by No. 54, 1959, s. 24; amended by No. 28, 1966, s. 4.

183P. A person summoned to attend before a Committee as a witness shall not—

- (a) without reasonable cause fail to attend, after payment or tender to him of a reasonable sum for his expenses of attendance;
- (b) refuse to be sworn or to make an affirmation as a witness, or to answer any question when required to do so by a member of the Committee; or
- (c) without reasonable cause, refuse or fail to produce a book or document which he was required by the summons to produce.

Penalty: Two hundred dollars or imprisonment for six months.

183Q. A statement or disclosure made by a witness to a Committee is not admissible in evidence against him in civil or criminal proceedings in a court except in a prosecution under section thirty-five or thirty-six of the *Crimes Act* 1914-1959.

Statements of witness not admissible in evidence against him.

Inserted by No. 54, 1959, s. 24.

183R. (1) A person who attends in obedience to a summons to attend as a witness before a Committee is entitled to be paid witness fees and travelling allowance according to the scale of fees and allowances payable to witnesses in the Supreme Court of the State or Territory in which he is required to attend or, in special circumstances, such fees and allowances as the Chairman of the Committee directs (less any amount previously paid to him for his expenses of attendance).

Witness fees.

Inserted by No. 54, 1959, s. 24.

Sub-section (1) amended by No. 216, 1973, s. 3.

(2) The fees and allowances are payable—

- (a) in the case of a witness summoned at the request of the customs agent to whom the inquiry relates—by that customs agent; and
- (b) in any other case—by the Commonwealth.

183S. (1) In an inquiry before a Committee, the customs agent to whom the inquiry relates and the Minister are each entitled to be represented by a barrister or solicitor or, with the approval of the Committee, by some other person.

Representation by counsel, &c.

Inserted by No. 54, 1959, s. 24.

(2) A barrister, solicitor or other person appearing before a Committee may examine or cross-examine witnesses and address the Committee.

183T. (1) An action or proceeding, civil or criminal, does not lie against a member of a Committee for or in respect of an act or thing done, or report made, in good faith by the member of the Committee in his capacity as a member.

Protection of members.

Inserted by No. 54, 1959, s. 24.

(2) An act or thing shall be deemed to have been done in good faith if the member or Committee by whom the act or thing was done was not actuated by ill-will to the person affected or by any other improper motive.

183U. (1) A barrister, solicitor or other person appearing before a Committee has the same protection and immunity as a barrister has in appearing for a party in proceedings in the High Court.

Protection of barristers, witnesses, &c.

Inserted by No. 54, 1959, s. 24.

(2) A witness summoned to attend or appearing before a Committee has the same protection as a witness in proceedings in the High Court.

PART XII—OFFICERS

Division 1—Powers of Officers

Ships, boats and aircraft to bring to or land.

Amended by No. 12, 1923, s. 2; and No. 108, 1952, s. 20.

184. The commander or officer in charge of any ship boat or aircraft in His Majesty's service or in the service of the Commonwealth or Customs, such ship boat or aircraft having hoisted and carrying the proper ensign and pendant or Customs flag, may chase any ship or aircraft which does not bring to or land at the airport when lawfully signalled or required to do so and may (after having fired a gun as a signal) fire at or into such ship or aircraft to compel her to bring to or land at the airport.

Officers may board ships and aircraft hovering on coast.

Amended by No. 12, 1923, s. 2; No. 7, 1934, s. 16; No. 108, 1952, s. 20; No. 28, 1966, s. 4; and No. 54, 1967, s. 10.

185. Any officer may require the master of any ship or the pilot of any aircraft hovering within three nautical miles of the coast or of land to depart, and if such ship or aircraft shall fail to depart accordingly within twelve hours thereafter any officer may board and bring such ship or aircraft into port or airport and search her.

The Collector may examine all persons on board of such ship or aircraft and they shall each thereupon answer questions relating to the ship or aircraft and her cargo crew passengers stores and voyage and produce documents relating to the ship or aircraft and her cargo.

Penalty: Five hundred dollars.

Examine all goods.

186. Any officer may open packages and examine weigh mark and seal any goods subject to the control of the Customs, and the expense of the examination including the cost of removal to the place of examination shall be borne by the owner.

Power to board and search ships, boats and aircraft.

Amended by No. 12, 1923, s. 27.

187. Any officer may—

- (1) Board any ship boat or aircraft.
- (2) Search any ship boat or aircraft.
- (3) Secure any goods on any ship boat or aircraft.

Boarding.

Amended by No. 12, 1923, s. 2; No. 28, 1966, s. 4; and No. 54, 1967, s. 10.

188. The power of an officer to board shall extend to staying on board any ship or aircraft and the Collector may station an officer on board any ship or aircraft, and the master or pilot shall provide sleeping accommodation in the cabin and suitable and sufficient food for such officer.

Penalty: Two hundred and fifty dollars.

Searching.

Amended by No. 12, 1923, s. 28.

189. The power of an officer to search shall extend to every part of any ship boat or aircraft, and shall authorize the opening of any package, locker, or place and the examination of all goods.

190. The power of an officer to secure any goods shall extend to fastening down hatchways and other openings into the hold and locking up, sealing, marking, or otherwise securing any goods or the removal of any goods to the King's warehouse.

Securing goods.

191. No fastening, lock, mark, or seal placed by an officer upon any goods or upon any door hatchway opening or place upon any ship or aircraft shall be opened, altered, broken or erased, except by authority, whilst the goods upon which the fastening, lock, mark, or seal is placed or which are intended to be secured thereby shall remain subject to the control of the Customs.

Seals, &c., not to be broken.
Amended by No. 12, 1923, s. 2; No. 28, 1966, s. 4; and No. 54, 1967, s. 10.

Penalty: Two hundred and fifty dollars.

192. No fastening, lock, mark, or seal placed by an officer upon any goods or upon any door, hatchway, opening, or place for the purpose of securing any stores upon any ship or aircraft which has arrived in any port or airport from parts beyond the seas and which is bound to any other port or airport within the Commonwealth shall be opened, altered, broken, or erased except by authority; and if any ship or aircraft enters any port or airport with any such fastening, lock, mark, or seal opened, altered, broken, or erased contrary to this section, the master or pilot shall be guilty of an offence against this Act.

Seals, &c., on ship or aircraft in port bound to another port within Commonwealth.
Amended by No. 12, 1923, s. 2; No. 108, 1952, s. 20; No. 28, 1966, s. 4; and No. 54, 1967, s. 10.

Penalty: Five hundred dollars.

193. Any officer and any person acting in his aid when on duty may patrol upon and pass freely along and over any part of the coast or any railway or the shores, banks, or beaches of any port by harbour lake or river.

Officers may patrol coasts, &c.

194. The officer in charge for the time being of any vessel or boat employed in the service of the Customs may haul any such vessel or boat upon any part of the coast or the shores banks or beaches of any port bay harbour lake or river and may moor any such vessel or boat thereon and continue such vessel or boat so moored as aforesaid for such time as he shall deem necessary.

Boats on service may be moored in any place.

195. Any person on board any ship boat or aircraft or who may have landed from or got out of any ship boat or aircraft may be questioned by any officer as to whether he has any dutiable goods or prohibited imports or prohibited exports upon his person or in his possession or in his baggage.

Power to question passengers.
Amended by No. 36, 1910, s. 6; and No. 12, 1923, s. 2.

196. If any officer of Customs or of police shall have reasonable cause to suspect that any person is unlawfully carrying or has any goods subject to the control of the Customs or any prohibited imports or any prohibited exports secreted about him the following consequences shall ensue:—

Suspected persons—detention and search.
Amended by No. 36, 1910, s. 7.

(1) The officer may detain and search the suspected person.

- (2) Before the suspected person shall be searched he may require to be taken before a Justice or the Collector.
- (3) The Justice or Collector may order the suspected person to be searched or may discharge him without search.

But females shall only be searched by a female searcher appointed by the Justice or Collector.

Power to
stop vehicles.

Amended by
No. 28, 1966,
s. 4; and No. 54,
1967, s. 10.

197. Any officer of Customs or police upon reasonable suspicion may stop and search any carriage for the purpose of ascertaining whether any dutiable goods are contained therein and the driver of any carriage shall stop and permit such search whenever required by any such officer.

Penalty: One hundred dollars.

Power to
stop and
search
carriages
carrying
petrol, &c.

Inserted by
No. 111, 1960,
s. 8.

197A. (1) The powers conferred by this section are conferred, and shall only be exercised, for the purpose of enabling officers of Customs to ascertain whether a carriage is carrying petrol or any other petroleum oil in respect of which any duty of Customs or duty of Excise is payable.

(2) An officer of Customs may request the driver of any carriage that he has reasonable cause to suspect is carrying petrol or any other petroleum oil to stop the carriage.

(3) The driver of a carriage that is, or is so constructed as to be capable of, carrying petrol or any other petroleum oil shall, when requested by an officer of Customs, stop the carriage.

(4) An officer of Customs may search any carriage that he has reasonable cause to suspect is carrying petrol or any other petroleum oil and inspect any documents in the possession of the driver relating to the goods being carried in the carriage.

Amended by
No. 28, 1966,
s. 4; and No. 54,
1967, s. 10.

(5) The driver of a carriage that is, or is so constructed as to be capable of, carrying petrol or any other petroleum oil shall, when requested by an officer of Customs, permit the officer to search the carriage and inspect any documents in the possession of the driver relating to the goods being carried in the carriage.

Penalty: One hundred dollars.

Writs of
Assistance.

Amended by
No. 14, 1968,
s. 3; and
No. 216, 1973,
s. 3.

198. The High Court or the Supreme Court of any State or Territory having jurisdiction in the State or Territory where the application is made may grant a Writ of Assistance in the form of Schedule III hereto upon application made to him for that purpose by a Minister of State for the Commonwealth or by the Comptroller or the Collector of Customs

for a State or Territory, and such writ unless superseded shall be in force so long as any person named therein remains an officer of Customs whether in the same capacity or not.

199. (1) The Comptroller, or the Collector of Customs for a State or Territory, may issue to any officer of Customs or officer of police a Customs Warrant, in accordance with the form in Schedule IV to this Act, marked with a Customs stamp.

Customs Warrants.

Substituted by No. 48, 1963, s. 20.

Sub-section (1) amended by No. 14, 1968, s. 3.

(2) A Customs Warrant issued under the last preceding sub-section remains in force until the expiration of the period specified in the Warrant or until the Warrant is revoked, whichever first occurs.

(3) A Customs Warrant issued by a Collector of Customs for a State has force only in the State and a Customs Warrant issued by the Collector of Customs for the Northern Territory has force only in the Northern Territory.

Amended by No. 14, 1968, s. 3.

200. Any officer having with him a Writ of Assistance or a Customs Warrant in the form of Schedule IV hereto, or any officer of police having with him any such Warrant, may at any time in the day or night enter into and search any house premises or place and may break open the same and search any chests trunks or packages in which goods may be or are supposed to be.

Power to search.

Amended by No. 12, 1923, s. 29.

201. Any officer acting under a Writ of Assistance or Customs Warrant in the form of Schedule IV hereto may take with him and have the assistance of any police officer and such assistants as he may think necessary.

Power to take assistants.

Amended by No. 12, 1923, s. 30.

202. Any person lawfully making any seizure under any Customs Act may call upon any person present in the King's name to assist him, and such assistance shall be rendered accordingly.

Power to call for aid.

Amended by No. 28, 1966, s. 4; and No. 54, 1967, s. 10.

Penalty: One hundred dollars.

203. Any officer of His Majesty's forces or any officer of Customs or police may seize any forfeited ship aircraft or goods upon land or water or any ship aircraft or goods which he has reasonable cause to believe are forfeited.

Power to seize goods.

Amended by No. 12, 1923, s. 2.

204. All seized goods shall be taken to the nearest King's warehouse or to such other place of security as the Collector shall direct.

Seized goods to be secured.

Notice to be given of goods seized.

Sub-section (1) amended by No. 12, 1923, s. 2; and No. 48, 1963, s. 21.

205. (1) When any ship aircraft boat or goods have been seized as forfeited the seizing officer shall give notice in writing of such seizure and the cause thereof to the master pilot or owner of the ship aircraft boat or goods (unless such master pilot or owner be present at the seizure in which case no notice shall be necessary) either by delivering such notice to him personally or by letter addressed to him and transmitted by post to or delivered at his last known place of abode or business and all ships aircraft boats or goods seized shall be deemed to be condemned and may be sold by the Collector unless the person from whom such ship aircraft boat or goods shall have been seized or the owner shall within one month from the date of seizure give notice in writing to an appropriate officer that he claims them; but if any goods so seized shall be of a perishable nature or shall be live animals the same may be forthwith sold by the Collector.

Added by No. 48, 1963, s. 21; amended by No. 14, 1968, s. 3.

(2) In this section, "appropriate officer" means—

- (a) where the seizure occurred in the Australian Capital Territory—the Comptroller;
- (b) where the seizure occurred in a State—the Collector of Customs for the State; or
- (c) where the seizure occurred in the Northern Territory—the Collector of Customs for the Northern Territory,

and includes the principal officer of Customs (if any) doing duty at the place where the seizure occurred.

Seized goods may be returned on security.

Amended by No. 12, 1923, s. 2; and No. 14, 1968, s. 3.

206. The Comptroller or the Collector of Customs for a State or Territory may authorize any ship aircraft boat or goods seized to be delivered to the claimant on his giving security to pay their value in case of their condemnation.

Collector may retain goods and require owner to proceed for restoration.

207. Whenever any goods have been seized by any officer and claim to such goods has been served on the Collector by the owner of such goods, the Collector may retain possession of the goods without taking any proceedings for their condemnation, and may by notice under his hand require the claimant to enter an action against him for the recovery of the goods, and if such claimant shall not within four months after the date of such notice enter such action the goods shall be deemed to be condemned without any further proceedings.

Disposal of forfeited ships, aircraft and goods.

Amended by No. 12, 1923, s. 2.

208. All forfeited ships, aircraft and goods shall be disposed of or destroyed in such manner as may be prescribed or as the Comptroller may direct.

209. All goods seized by any person not being a Customs officer shall forthwith be conveyed to the nearest Customs House and there delivered to an officer. Delivery of seized goods.

210. (1) Any officer of Customs or police may without warrant arrest any person who he has reasonable ground to believe is guilty of committing, or attempting to commit, or of being concerned in the commission of, any of the following offences: — Arrest of persons suspected of smuggling, &c.

Substituted by
No. 36, 1910,
s. 9.

- (a) smuggling,
- (b) importing any prohibited imports,
- (c) exporting any prohibited exports, or
- (d) unlawfully conveying or having in his possession any smuggled goods, prohibited imports, or prohibited exports.

(1A) An officer of Customs or police may, without warrant, arrest a person if he has reasonable ground for believing that the person has committed the offence of assaulting an officer in the execution of his duties.

Inserted by No.
54, 1959, s. 25.

(2) No person shall resist, obstruct, or prevent the arrest of any person in pursuance of this section.

Amended by
No. 28, 1966,
s. 4; and No. 54,
1967, s. 10.

Penalty: One hundred dollars.

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Section 211
repealed by
No. 54, 1959,
s. 26.

212. Every person arrested may be detained until such time as he can without undue delay be taken before a Justice.

Arrested persons to go before Justices.

213. Any Justice before whom any person is brought under this Act may—

Powers of Justices with offenders.

- (1) Commit such person to gaol until he can be brought before Justices to be dealt with according to law; or
- (2) Admit him to bail upon his giving sufficient security for his appearance before Justices at the time and place appointed for the hearing of the charge.

Production of documents, &c., in cases of seizure.

Sub-section (1) amended by No. 56, 1950, s. 8; No. 28, 1966, s. 4; and No. 54, 1967, s. 10.

214. (1) Whenever information in writing has been given on oath to the Collector that goods have been unlawfully imported exported undervalued or entered or illegally dealt with, or that it is intended to unlawfully import export undervalue enter or illegally deal with any goods, or whenever any goods have been seized or detained, the owner shall immediately upon being required so to do by the Collector produce and hand over to him all books and documents relating to the goods so imported exported entered seized or detained undervalued or illegally dealt with, or intended to be unlawfully imported exported undervalued entered or illegally dealt with, and of all other goods imported or exported by him at any time within the period of five years immediately preceding such request seizure or detention, and shall also produce for the inspection of the Collector or such other officer as he may authorize for that purpose and allow such Collector or officer to make copies of or extracts from all books or documents of any kind whatsoever wherein any entry or memorandum appears in any way relating to any such goods.

Penalty: One thousand dollars.

Substituted by No. 48, 1963, s. 22; amended by No. 14, 1968, s. 3.

(2) For the purposes of this section, the Comptroller or the Collector of Customs for a State or Territory may issue to any officer of Customs or officer of police a Customs Warrant, in accordance with the form in Schedule V to this Act, marked with a Customs stamp.

Inserted by No. 48, 1963, s. 22.

(2A) A Customs Warrant issued under the last preceding subsection remains in force for one month after the date of the Warrant unless sooner revoked.

Inserted by No. 48, 1963, s. 22; amended by No. 14, 1968, s. 3.

(2B) A Customs Warrant issued by a Collector of Customs for a State has force only in the State and a Customs Warrant issued by the Collector of Customs for the Northern Territory has force only in the Northern Territory.

Added by No. 12, 1923, s. 31; amended by No. 48, 1963, s. 22.

(3) If any person fails to comply with a requirement by the Collector under this section, an officer of Customs or officer of police, having with him a Customs Warrant in the form of Schedule V hereto, may, at any time of the day or night, break open and enter into any house, premises or place in which any books or documents relating to the goods are or are supposed to be, and search—

- (a) the house, premises or place;
- (b) any person therein or thereon; and
- (c) any chests, trunks or packages therein or thereon,

and take possession of, remove and impound any of those books and documents which are found.

- 215.** The Collector may impound or retain any document presented in connexion with any entry or required to be produced under this Act, but the person otherwise entitled to such document shall in lieu thereof be entitled to a copy certified as correct by the Collector and such certified copy shall be received in all courts as evidence and of equal validity with the original. Collector may impound documents.
- 216.** The Collector may require from the owner of any goods proof by declaration or the production of documents that the goods are owned as claimed and are properly described valued or rated for duty and the Collector may refuse to deliver the goods or to pass any entry relating thereto pending such proof. Collector may require further proof of proper entry.
- 217.** If any document in a foreign language be presented to any officer for any purpose connected with Customs business, the Collector may require to be supplied with an English translation to be made at the expense of the owner by such person as the Collector may approve or to be verified as he may require. Translations of foreign invoices.
- 218.** Samples of any goods under the control of the Customs may for any purpose deemed necessary by the Collector be taken utilized and disposed of by any officer in manner prescribed. Customs samples.
- 219.** In all cases not herein otherwise provided for the Collector may exercise any power exercisable by the Customs. General power of Collector.

Division 2—Protection to Officers

- 220.** No person shall be liable for any seizure under this Act for which there shall have been reasonable cause, and when any claimant recovers any ship aircraft or goods seized or any proceeds thereof and at the same time reasonable cause for the seizure is found such finding shall bar all proceedings against all persons concerned in the seizing. Reasonable cause for seizure a bar to action.
Amended by No. 12, 1923, s. 2.
- 221.** No proceeding shall be commenced against any officer for anything done in execution of or by reason of his office until one month next after notice in writing shall have been delivered to him or left at his usual place of abode by the plaintiff his attorney or agent in which notice shall be clearly stated the cause and nature of the proceeding and the court in which the same is intended to be instituted, the name and place of abode of the plaintiff and the name and place of business of such attorney or agent unless the High Court or the Supreme Court of a State has granted leave to the plaintiff to proceed without notice, which leave the Court may grant on such terms as it thinks just. Notice of action to be given.
Amended by No. 216, 1973, s. 3.

Defect in notice not to invalidate.

222. No notice under the last preceding section shall be deemed invalid by reason of any defect or inaccuracy therein unless the Court is of opinion that the defect or inaccuracy would prejudice the defendant in his defence and the Court may give leave to amend such notice as it thinks just.

No evidence to be produced but that contained in notice.

223. Upon any proceeding instituted in pursuance of such notice the plaintiff shall not be at liberty to advance any evidence of any cause of action except such as has been distinctly stated in such notice nor shall the plaintiff be entitled to a verdict without proving on the trial that such notice has been duly served.

Officer may tender amends.

224. It shall be lawful for any officer to whom notice of proceeding shall have been given at any time within one month after such notice to tender amends to the plaintiff his attorney or agent and in case such amends be not accepted to plead such tender in defence either alone or with other defences and if the amends tendered shall be found to have been sufficient no costs shall be recovered against an officer and he shall be entitled to costs if he shall have brought the amount into court when entering his defence.

Commencement of proceedings against officers.

225. Every proceeding against any officer shall except as mentioned in the next section be commenced within six months after its cause shall have arisen and not afterwards and the venue shall be local and the defendant may plead the general issue and give any special matter in evidence.

Time for commencing action.

Sub-section (1) amended by No. 7, 1934, s. 17; and No. 48, 1963, s. 23.

226. (1) No proceeding whether against an officer or otherwise for anything done for the protection of the revenue in relation to any Customs Tariff or Customs Tariff alteration proposed in the Parliament shall except as mentioned in the next section be commenced before the close of the session in which such Tariff or Tariff alteration is proposed or before the expiration of six months after such Tariff or Tariff alteration is proposed, whichever first happens.

Added by No. 42, 1960, s. 3.

(2) No proceeding, whether against an officer or otherwise, for anything done for the protection of the revenue in relation to a Customs Tariff or Customs Tariff alteration that is intended to be proposed in accordance with a notice under section two hundred and seventy-three EA of this Act shall, except as provided in the next succeeding section, be commenced before—

- (a) the seventh sitting day of the House of Representatives after the date of publication of the notice, or the day on which the period of six months from the date of publication of the notice expires, whichever is the earlier day; or
- (b) where, on or before the earlier of the days referred to in the last preceding paragraph, a Customs Tariff or Customs Tariff alteration that would validate the thing so done is proposed in the Parliament—the close of the session in which the Customs Tariff

or Customs Tariff alteration is so proposed, or the expiration of six months after the Customs Tariff or Customs Tariff alteration is so proposed, whichever first happens.

227. The High Court or the Supreme Court of any State on the application of any person who desires to commence any proceeding mentioned in the last section against an officer may require the officer to give security to the satisfaction of the Court to abide the result of the proceeding and in default of the giving of such security may sanction the immediate commencement of the proceeding.

Security may be required.
Amended by No. 216, 1973, s. 3.

PART XIII—PENAL PROVISIONS

Division 1—Forfeitures

228. The following ships or boats not exceeding two hundred and fifty tons registered tonnage and the following aircraft shall be forfeited to the Crown:—

- (1) Any ship boat or aircraft used in smuggling, or knowingly used in the unlawful importation, exportation, or conveyance of any prohibited imports or prohibited exports.
- (2) Any ship boat or aircraft found within three nautical miles of the coast or of land failing to bring to, or failing to land at an airport, for boarding upon being lawfully required to do so.
- (3) Any ship boat or aircraft hovering within three nautical miles of the coast or of land and not departing within twelve hours after being required to depart by an officer.
- (4) Any ship boat or aircraft from which goods are thrown overboard staved or destroyed to prevent seizure by the Customs.
- (5) Any ship boat or aircraft found within any port or airport with cargo on board and afterwards found light or in ballast or with the cargo deficient and the master or pilot of which is unable to lawfully account for the difference.
- (6) Any ship boat or aircraft within three nautical miles of the coast or land having false bulk heads false bows sides or bottoms or any secret or disguised place adapted for the purpose of concealing goods or having any hole pipe or other device adapted for the purpose of running goods.

Forfeited ships and aircraft.
Substituted by No. 12, 1923, s. 32; amended by No. 7, 1934, s. 18; No. 56, 1950, s. 9; No. 108, 1952, s. 20; No. 28, 1966, s. 4; No. 54, 1967, s. 10; and No. 216, 1973, s. 3.

The owner of a ship exceeding two hundred and fifty tons registered tonnage which would be forfeited if the ship were less than two hundred and fifty tons registered tonnage shall be liable to a penalty not exceeding Ten thousand dollars, and the ship may be detained until the penalty is paid or until security is given for its payment.

Forfeited goods.

Amended by
No. 21, 1906,
s. 5; No. 12,
1923, s. 2;
No. 7, 1934,
s. 19; No. 56,
1950, s. 9;
No. 108, 1952,
ss. 16 and 20;
No. 104, 1968,
s. 35; and
No. 216, 1973,
s. 3.

229. The following goods shall be forfeited to the Crown:—

- (a) All goods which are smuggled, or unlawfully imported, exported, or conveyed.
- (b) All prohibited imports.
- (ba) All goods the importation of which has been prohibited unless a licence or permission containing conditions or requirements has been granted and those conditions or requirements have not been complied with.
- (c) All goods imported or exported in any ship boat or aircraft in which goods are prohibited to be imported or exported.
- (d) All dutiable goods found on any ship boat or aircraft being unlawfully in any place.
- (e) All goods found on any ship or aircraft after arrival in any port or airport and not being specified or referred to in the Inward Manifest and not being baggage belonging to the crew or passengers and not being satisfactorily accounted for.
- (f) All goods in respect of which bulk is unlawfully broken.
- (g) All goods subject to the control of the Customs that are moved, altered or interfered with except as authorized by this Act.
- (h) All goods which by this Act are required to be moved or dealt with in any way and which shall not be moved or dealt with accordingly.
- (i) All goods in respect of which any entry invoice declaration answer statement or representation which is false or wilfully misleading in any particular has been delivered made or produced.
- (j) Any carriage or animal used in smuggling or in the unlawful importation, exportation, or conveyance of any goods.
- (k) The cargo of any ship boat or aircraft which ship boat or aircraft hovers about the coast or land and does not depart within twelve hours after being required by an officer to depart.

* * * * *

- (m) All goods not being passengers' baggage found on any ship or aircraft after clearance and not specified or referred to in the Outward Manifest and not accounted for to the satisfaction of the Collector.
- (n) All prohibited exports put on any ship boat or aircraft for export or brought to any wharf or place for the purpose of export.
- (o) All dutiable goods concealed in any manner.
- (p) Any package having concealed therein goods not enumerated in the entry or being so packed as to deceive the officer.

- (q) All dutiable goods found in the possession or in the baggage of any person who has got out of, landed from or gone on board any ship boat or aircraft and who has denied that he has any dutiable goods in his possession, or who when questioned by an officer has not fully disclosed that such goods are in his possession or baggage.
- (r) All goods offered for sale on the pretence that the same are prohibited or smuggled goods.

230. The forfeiture of any goods shall extend to the forfeiture of the packages in which the goods are contained and the forfeiture of any package under the last preceding section shall extend to all goods packed or contained in the package. Forfeited packages and goods.

Division 2—Penalties

231. (1) All persons to the number of two or more assembled for the purpose of— Assembly for unlawful purposes.

- (a) importing prohibited imports; or
- (b) smuggling; or
- (c) preventing the seizure, or rescuing after seizure, of any prohibited imports or smuggled goods,

shall be guilty of an offence punishable upon conviction—

- (d) if the offence is committed in relation to goods that are not narcotic goods—by imprisonment for a period not exceeding two years; or
- (e) if the offence is committed in relation to goods that are narcotic goods—as provided by section two hundred and thirty-five of this Act.

(2) This section, in so far as it relates to prohibited imports, shall apply to all prohibited imports that are narcotic goods. Amended by No. 54, 1967, s. 5; and No. 134, 1971, s. 4.

(3) An offence against this section to which paragraph (d) of subsection (1) of this section applies is punishable upon summary conviction. Added by No. 54, 1967, s. 5.

232. Whoever—

- (a) being an officer of the Customs or Police makes any collusive seizure or delivers up or makes any agreement to deliver up or not to seize any ship boat carriage or goods liable to forfeiture or conspires or connives with any person to import or export, or is in any way concerned in the importation or exportation of any goods for the purpose of seizing any ship boat carriage or goods and obtaining any reward for such seizure;

Collusive seizures—penalty.
Amended by No. 7, 1934, s. 21.

Bribe offered to officer—
penalty.

- (b) gives, or procures to be given, or offers or promises to give or procure to be given any bribe recompense or reward to, or makes any collusive agreement with any officer to induce him in any way to neglect his duty, or who by threats demands or promises attempts to influence any officer in the discharge of his duty;

* * * * *

shall be guilty of an indictable offence and shall be liable to imprisonment with or without hard labour for any term not exceeding five years.

Rescuing goods and assaulting officers.

Inserted by No. 7, 1934, s. 22; amended by No. 54, 1959, s. 27; No. 48, 1963, s. 24; No. 28, 1966, s. 4; and No. 54, 1967, s. 10.

232A. Whoever—

- (a) rescues any goods which have been seized, or, before or at or after seizure, staves, breaks or destroys any goods or documents relating thereto to prevent the seizure thereof or the securing of the same or the proof of any offence; or
- (b) assaults, resists, molests, obstructs or endeavours to intimidate any officer, or any person assisting an officer, in the execution of his duty,

shall be guilty of an offence and shall be liable, upon summary conviction, to a fine not exceeding Five hundred dollars or to imprisonment for any period not exceeding two years.

Smuggling and unlawful importation and exportation.

Substituted by No. 36, 1910, s. 11.

Sub-section (1) amended by No. 48, 1963, s. 25; No. 28, 1966, s. 4; No. 54, 1967, s. 6; and No. 134, 1971, s. 5.

233. (1) No person shall—

- (a) smuggle any goods; or
- (b) import any prohibited imports; or
- (c) export any prohibited exports; or
- (d) unlawfully convey or have in his possession any smuggled goods or prohibited imports or prohibited exports.

Penalty: One thousand dollars.

* * * * *

Sub-section (1A) omitted by No. 134, 1971, s. 5.

(2) It shall not be lawful for any person to convey or have in his possession without reasonable excuse (proof whereof shall lie upon him) any smuggled goods or prohibited imports.

(3) It shall not be lawful for any person to convey or have in his possession any prohibited exports with intent to export them or knowing that they are intended to be unlawfully exported.

(4) Merchandise on board a ship or aircraft calling at any port or airport in Australia, but intended for and consigned to some port or airport or place outside Australia, shall not be deemed to be unlawfully imported into Australia if the goods are specified on the ship's or aircraft's manifest and are not transhipped or landed in Australia or are transhipped or landed by authority.

Amended by
No. 12, 1923,
s. 2; and
No. 108, 1952,
s. 20.

(5) This section does not apply to, or in relation to, narcotic goods.

Added by
No. 134, 1971,
s. 5.

233A. (1) The master of a ship or boat or the pilot of an aircraft shall not use his ship boat or aircraft, or knowingly suffer her to be used, in smuggling, or in the importation of any goods in contravention of this Act, or in the exportation or conveyance of any goods in contravention of this Act.

Master not to
use or allow
use of ship
for
smuggling,
&c.

Sub-section (1)
substituted by
No. 36, 1910,
s. 11; amended
by No. 12, 1923,
s. 2; No. 28,
1966, s. 4; and
No. 54, 1967,
s. 7.

(2) A person who contravenes the last preceding sub-section is guilty of an offence punishable upon conviction—

Added by
No. 54, 1967,
s. 7; amended by
No. 134, 1971,
s. 6.

- (a) if the offence is committed in relation to goods that are not narcotic goods—by a fine not exceeding One thousand dollars; or
- (b) if the offence is committed in relation to goods that are narcotic goods—as provided by section two hundred and thirty-five of this Act.

233B. (1) Any person who—

Special
provisions
with respect
to narcotic
goods.

- (a) without any reasonable excuse (proof whereof shall lie upon him) has in his possession, on board any ship or aircraft, any prohibited imports to which this section applies, or
- (b) imports, or attempts to import, into Australia any prohibited imports to which this section applies or exports, or attempts to export, from Australia any prohibited exports to which this section applies, or
- (c) without reasonable excuse (proof whereof shall lie upon him) has in his possession any prohibited imports to which this section applies which have been imported into Australia in contravention of this Act, or
- (ca) without reasonable excuse (proof whereof shall lie upon him) has in his possession any prohibited imports to which this section applies which are reasonably suspected of having been imported into Australia in contravention of this Act, or
- (d) aids, abets, counsels, or procures, or is in any way knowingly concerned in, the importation into Australia of any prohibited imports to which this section applies, or the exportation from

Substituted by
No. 36, 1910,
s. 11.

Sub-section (1)
amended by
No. 12, 1923,
s. 2; No. 54,
1967, s. 8; and
No. 134, 1971,
s. 7.

Australia of any prohibited exports to which this section applies, or

- (e) fails to disclose to an officer on demand any knowledge in his possession or power concerning the importation or intended importation into Australia of any prohibited imports to which this section applies or the exportation or intended exportation from Australia of any prohibited exports to which this section applies,

shall be guilty of an offence.

Inserted by
No. 54, 1967,
s. 8.

(1A) On the prosecution of a person for an offence against the last preceding sub-section, being an offence to which paragraph (c) of that sub-section applies, it is not necessary for the prosecution to prove that the person knew that the goods in his possession had been imported into Australia in contravention of this Act, but it is a defence if the person proves that he did not know that the goods in his possession had been imported into Australia in contravention of this Act.

Inserted by
No. 134, 1971,
s. 7.

(1B) On the prosecution of a person for an offence against sub-section (1) of this section, being an offence to which paragraph (ca) of that sub-section applies, it is a defence if the person proves that the goods were not imported into Australia or were not imported into Australia in contravention of this Act.

Inserted by
No. 134, 1971,
s. 7.

(1C) Any defence for which provision is made under either of the last two preceding sub-sections in relation to an offence does not limit any defence otherwise available to the person charged.

Substituted by
No. 134, 1971,
s. 7.

(2) The prohibited imports to which this section applies are prohibited imports that are narcotic goods and the prohibited exports to which this section applies are prohibited exports that are narcotic goods.

Substituted by
No. 54, 1967,
s. 8.

(3) A person who is guilty of an offence against sub-section (1) of this section is punishable upon conviction as provided by section two hundred and thirty-five of this Act.

(4) This section shall not prevent any person from being proceeded against for an offence against any other section of this Act, but he shall not be liable to be punished twice in respect of any one offence.

Customs
offences.

Amended by
No. 12, 1923,
s. 33; No. 28,
1966, s. 4; and
No. 54, 1967,
s. 10.

234. No person shall—

- (a) Evade payment of any duty which is payable;
- (b) Obtain any drawback, refund, rebate or remission which is not payable;
- (c) Prepare pass or present any document purporting to be a genuine invoice which is not in fact a genuine invoice;
- (d) Make any entry which is false in any particular;
- (e) Make in any declaration or document produced to any officer any statement which is untrue in any particular or produce or

deliver to any officer any declaration or document containing any such statement;

- (f) Mislead any officer in any particular likely to affect the discharge of his duty;
- (g) Refuse or fail to answer questions or to produce documents;
- (h) Sell or offer for sale any goods upon the pretence that such goods are prohibited imports or smuggled goods.

Penalty: One thousand dollars.

234A. (1) A person shall not, except by authority—

- (a) enter on or be in a place of examination in or at which goods being the personal baggage of passengers disembarking from, or embarking on, a ship or aircraft are being examined for the purposes of this Act; or
- (b) enter on or be in or on—
 - (i) a ship;
 - (ii) an aircraft; or
 - (iii) the wharf at which, or the part of a wharf adjacent to which, a ship is berthed,

at a time when goods being the personal baggage of passengers disembarking from, or embarking on that ship or aircraft are being examined, for the purposes of this Act, at or in the vicinity of the ship, aircraft, wharf or part of a wharf.

Penalty: One hundred dollars.

(2) The last preceding sub-section does not prohibit a person—

- (a) who has, or is a member of an authority which has, the management or control of a wharf or wharves or an airport or airports; or
- (b) who is employed in connexion with the management or control of a wharf or wharves or an airport or airports,

from entering on, or being in or on, a place, ship, aircraft, wharf or part of a wharf for the purposes of that management or control.

235. (1) Where—

- (a) a person commits an offence against sub-section (4) of section fifty, sub-section (1) of section two hundred and thirty-one, section two hundred and thirty-three A or sub-section (1) of section two hundred and thirty-three B of this Act; and
- (b) the offence is an offence that is punishable as provided by this section,

the penalty applicable to the offence is, subject to sub-sections (3) and (4) of this section—

- (c) where the offence is an offence against sub-section (1) of section two hundred and thirty-three B of this Act and the Court is satisfied that the narcotic goods in relation to which the offence

Unauthorized entry on ships, aircraft or wharves.

Inserted by No. 108, 1952, s. 17.

Sub-section (1) amended by No. 28, 1966, s. 4; and No. 54, 1967, s. 10.

Added by No. 37, 1957, s. 10.

Offences in relation to narcotic goods.

Sub-section (1) substituted by No. 134, 1971, s. 8.

was committed consist of a quantity of a narcotic substance (being the narcotic substance specified in the information, complaint, declaration, claim or indictment as the narcotic substance of which the goods consist) that is not less than the trafficable quantity applicable to the substance—a fine not exceeding Four thousand dollars or imprisonment for a period not exceeding ten years, or both a fine not exceeding that amount and imprisonment for a period not exceeding that period; or

- (d) in any other case—a fine not exceeding Two thousands dollars or imprisonment for a period not exceeding two years, or both a fine not exceeding that amount and imprisonment for a period not exceeding that period.

(2) An offence referred to in the last preceding sub-section may be prosecuted summarily or upon indictment, but an offender is not liable to be punished more than once in respect of the same offence.

Amended by
No. 134, 1971,
s. 8.

(3) Where proceedings for an offence referred to in sub-section (1) of this section are brought in a court of summary jurisdiction, the court may commit the defendant for trial or, with the consent of the defendant and of the prosecutor, determine the proceedings, but, where the court of summary jurisdiction determines the proceedings, the court shall not impose a fine exceeding Two thousand dollars or sentence the defendant to imprisonment for a period exceeding two years, but may impose both a fine and a period of imprisonment in respect of the offence.

Added by
No. 134, 1971,
s. 8.

(4) Paragraph (c) of sub-section (1) of this section does not apply in the case of an offence where the Court is satisfied that the offence was not committed by the person charged for any purpose related to the sale of, or other commercial dealing in, the narcotic goods in relation to which the offence was committed.

Aiders and
abettors.

236. Whoever aids abets counsels or procures or by act or omission is in any way directly or indirectly concerned in the commission of any offence against this Act shall be deemed to have committed such offence and shall be punishable accordingly.

Attempts.

237. Any attempt to commit an offence against this Act shall be an offence against this Act punishable as if the offence had been committed.

Offences not
specifically
provided for.

Amended by
No. 28, 1966,
s. 4; and
No. 54, 1967,
s. 10.

238. Any person who is guilty by act or omission of any contravention or evasion of this Act for which no other penalty is provided shall be liable to a penalty of not more than Fifty dollars.

239. All penalties shall be in addition to any forfeiture.

Penalties in addition to forfeitures.

240. If any penalty hereby provided shall be less than three times the value of any goods in respect of which the offence has been committed the maximum penalty shall be thrice the value of the goods.

Maximum penalty in certain cases.

241. Any person may at the same time be charged with an offence against this Act and with an intent to defraud the revenue and if in addition to such offence he is convicted of such intent the maximum penalty shall be double that otherwise provided

Maximum penalty in case of intent to defraud.

242. When any person is convicted of any offence against this Act for which a pecuniary penalty is provided and it shall appear that such person had been previously convicted of any similar offence the Court may in lieu of or in addition to imposing any penalty order that such person shall be imprisoned with hard labour for a period not less than six months nor more than two years and with or without the right of release on payment of a penalty.

If previous conviction defendant may be imprisoned.

243. The minimum pecuniary penalty for any offence against this Act shall be one-twentieth of the maximum pecuniary penalty specified in this Act, other than in section two hundred and forty, in respect of that offence.

Minimum penalty.
Amended by No. 133, 1965, s. 7.

PART XIV—CUSTOMS PROSECUTIONS

244. Proceedings by the Customs for the recovery of penalties under this Act or for the condemnation of ships, aircraft or goods seized as forfeited are herein referred to as Customs Prosecutions.

Interpretation.

Amended by No. 108, 1952, s. 20.

245. Customs prosecutions may be instituted in the name of the Minister by action information or other appropriate proceeding—

How instituted.

Amended by No. 28, 1966, s. 4; and No. 216, 1973, s. 3.

(a) In the High Court; or

(b) In the Supreme Court of any State;

and when the prosecution is for a pecuniary penalty not exceeding One thousand dollars or the excess is abandoned the Customs prosecution may be instituted in the name of the Collector in

(c) Any County Court District Court Local Court or Court of summary jurisdiction.

Evidence of authority to institute proceedings.

Inserted by No. 36, 1910, s. 12.

245A. (1) Where any Customs prosecution has been instituted by an officer in the name of the Collector, the prosecution shall, in the absence of evidence to the contrary, be deemed to have been instituted by the authority of the Collector.

(2) The production of a telegram purporting to be signed by the Collector, and purporting to authorize an officer to institute any Customs prosecution or proceedings, shall be admissible in evidence in the prosecution or proceedings and shall be accepted as evidence of the authority of the officer to institute the prosecution or proceedings in the name of the Collector.

Defendant to have right of trial in High or State Court.

Amended by No. 28, 1966, s. 4; and No. 216, 1973, s. 3.

246. In any Customs prosecution where the penalty exceeds Two hundred dollars and the excess is not abandoned the defendant within seven days after service of process shall have the right in manner prescribed to elect to have the case tried in the option of the prosecutor either in the High Court or in the Supreme Court of the State in which such prosecution has been instituted and thereupon the proceedings shall stand removed accordingly and may be continued as if originally instituted in the Court to which they are so removed.

Prosecutions in accordance with practice rules.

Amended by No. 216, 1973, s. 3.

247. Every Customs prosecution in the High Court or the Supreme Court of any State may be commenced prosecuted and proceeded with in accordance with any rules of practice established by the Court for Crown suits in revenue matters or in accordance with the usual practice and procedure of the Court in civil cases or in accordance with the directions of the Court or a Judge.

State Court practice.

Amended by No. 12, 1923, s. 34.

248. Subject to the provisions of this Act the provisions of the law relating to summary proceedings before Justices in force in the State where the proceedings are instituted shall apply to all Customs prosecutions before a Court of summary jurisdiction in such State, and an appeal shall lie from any conviction order for condemnation or order of dismissal to the Court and in the manner provided by the law of the State where such conviction or order is made for appeals from convictions or orders of dismissal, and notwithstanding anything to the contrary in the law of the State, an appeal shall lie from an order of dismissal to any court to which and in the manner in which an appeal lies from a conviction.

Commencement of prosecutions.

249. Customs prosecutions may be instituted at any time within five years after the cause thereof.

Information, &c., to be valid, &c., if in words of Act.

250. All informations summonses convictions condemnations and warrants shall suffice if the offence or forfeiture is set forth as nearly as may be in the words of this Act.

250A. Where in any proceedings on behalf of the Customs in relation to any goods subject to the control of the Customs it is necessary to allege any property in the goods, the goods may be alleged to be the property of the Collector without mentioning his name.

Property in goods subject to control of Customs.

Inserted by No. 36, 1910, s. 13.

251. No objection shall be taken or allowed to any information or summons for any alleged defect therein in substance or in form or for any variance between such information or summons and the evidence adduced at the hearing in support thereof, and the Court shall at all times make any amendment necessary to determine the real question in dispute or which may appear desirable, and if any such defect or variance shall appear to the Court to be such that the defendant has been thereby deceived or misled it shall be lawful for the Court upon such terms as it may think just to adjourn the hearing of the case to some future day.

No objection for informality.

252. No conviction warrant of commitment or condemnation order or other proceeding matter or thing done or transacted in relation to the execution or carrying out of any Customs Act shall be held void quashed or set aside by reason of any defect therein or want of form and no party shall be entitled to be discharged out of custody on account of such defect.

Conviction not to be quashed.

253. No witness on behalf of the Minister or Collector in any Customs prosecution shall be compelled to disclose the fact that he received any information or the nature thereof or the name of the person who gave such information, and no officer appearing as a witness shall be compelled to produce any reports made or received by him confidentially in his official capacity or containing confidential information.

Protection to witnesses.

254. (1) In every Customs prosecution the defendant shall be competent to give evidence.

Defendant competent witness.

(2) In every Customs prosecution except for an indictable offence or for an offence directly punishable by imprisonment the defendant shall be compellable to give evidence.

255. (1) In any Customs prosecution the averment of the prosecutor or plaintiff contained in the information, complaint, declaration or claim shall be *prima facie* evidence of the matter or matters averred.

Averment of prosecutor sufficient.

Substituted by No. 12, 1923, s. 35.

(2) This section shall apply to any matter so averred although—

- (a) evidence in support or rebuttal of the matter averred or of any other matter is given by witnesses; or
- (b) the matter averred is a mixed question of law and fact, but in that case the averment shall be *prima facie* evidence of the fact only.

(3) Any evidence given by witnesses in support or rebuttal of a matter so averred shall be considered on its merits and the credibility and probative value of such evidence shall be neither increased nor diminished by reason of this section.

(4) The foregoing provisions of this section shall not apply to—

- (a) an averment of the intent of the defendant; or
- (b) proceedings for an indictable offence or an offence directly punishable by imprisonment.

(5) This section shall not lessen or affect any onus of proof otherwise falling on the defendant.

Proof of
proclamation,
&c.

Amended by
No. 14, 1968,
s. 3.

256. The production of the *Gazette* containing any proclamation, gazette notice or regulation appearing to have been issued or made under this Act or the production of any document certified by the Comptroller or the Collector of Customs for a State or Territory to be a true copy of, or extract from any such proclamation, gazette notice, or regulation issued or made under this Act shall be *prima facie* evidence of the issue or making of such proclamation, gazette notice, or regulation, and that the same is in force.

Minimum
penalties.

257. No minimum penalty imposed by this Act shall be liable to reduction under any power of mitigation which would but for this section be possessed by the Court.

Sections 258 and
258A repealed by
No. 37, 1957,
s. 11.

* * * * *

Collector
may levy on
goods in his
possession.

259. When any pecuniary penalty adjudged against any person is unpaid the Collector may levy the same by sale of any goods belonging to such person which may then or thereafter be subject to the control of the Customs.

Section 260
repealed by
no. 37, 1957,
s. 11.

* * * * *

Imprisonment
not to release
penalty.

261. No person shall be twice imprisoned upon the same conviction but the suffering of imprisonment for non-payment of a penalty shall not release the penalty or affect the right of the Customs to collect the amount in any manner provided by this Act other than by imprisonment of the person convicted.

Conviction
to operate as
a condem-
nation.

262. Where the committal of any offence causes a forfeiture of any goods the conviction of any person for such offence shall have effect as a condemnation of the goods in respect of which the offence is committed.

263. In a Customs prosecution, whether commenced before or after the commencement of this section, a court may award costs against a party, and, where an amount of costs is awarded against a party other than the prosecutor, section two hundred and fifty-nine of this Act and any provision of a law of a State or Territory that, by virtue of an Act other than this Act, applies in relation to the recovery of pecuniary penalties under this Act apply in relation to the recovery of the amount of costs so awarded as if it were a pecuniary penalty adjudged to be paid by the party under this Act.

Parties may recover costs.
Substituted by No. 48, 1963, s. 27; amended by No. 216, 1973, s. 3.

264. All penalties and forfeitures recovered under any Customs Act shall be applied to such purposes and in such proportions as the Minister may direct.

Application of penalties.

PART XV—SETTLEMENT OF CASES BY THE MINISTER

265. If any dispute shall arise between any officer and any person with reference to any contravention of this Act, the Minister may in manner prescribed with the written consent of such person inquire into and determine the dispute and shall have power by order a notification of which shall be published in the *Gazette* to impose enforce mitigate or remit any penalty or forfeiture which he shall determine shall have been incurred.

Settlement of disputes by Minister.
Amended by No. 36, 1910, s. 14.

266. Every such order shall be final and without appeal and shall not be liable to be quashed on any account and a copy thereof shall be delivered to such person and may be enforced in the same manner as the order of a court of summary jurisdiction.

Minister's order to be final.

267. The Minister in holding any inquiry under this Part of this Act shall hold such inquiry in public and may—

Powers of Minister at inquiries.

- (a) Summon the parties and any witnesses before him.
- (b) Take evidence on oath.
- (c) Require the production of documents.
- (d) Allow reasonable expenses to witnesses and costs to successful parties.

268. No person being summoned as a witness at any inquiry under this Act shall—

Obligations on witnesses.

- (a) Disobey such summons;
- (b) Refuse to be sworn as such witness;
- (c) Refuse or fail to produce any document he may be required to produce;
- (d) Being sworn as a witness refuse or fail to answer any question lawfully put to him.

Amended by No. 28, 1966, s. 4; and No. 54, 1967, s. 10.

Penalty: One hundred dollars.

False
statements
on oath.

Inserted by No.
48, 1963, s. 28.

268A. (1) A person who wilfully makes a false statement in evidence on oath at an inquiry held by the Minister under this Part is guilty of an offence against this section.

(2) An offence against this section may be prosecuted either summarily or upon indictment but an offender is not liable to be punished more than once in respect of the same offence.

Amended by No.
28, 1966, s. 4.

(3) The punishment for an offence against this section is—

- (a) if the offence is prosecuted summarily—a fine not exceeding Two hundred dollars or imprisonment for a term not exceeding six months, or both; or
- (b) if the offence is prosecuted upon indictment—imprisonment for a term not exceeding four years.

Minister may
determine
differences.

269. Any matter of difference arising under this Act, or in relation to the Customs, and not involving a contravention of this Act, may, at the request of the parties interested, be referred to the Minister for decision, and thereupon the Minister may in such manner as he shall think fit inform his mind of the circumstances, and finally decide the difference.

Heading
amended by No.
108, 1952, s. 18.

PART XVI—REGULATIONS AND BY-LAWS

Regulations
to have force
of law.

Sub-section (1)
amended by No.
36, 1910, s. 15;
and No. 12,
1923, s. 36.

270. (1) The Governor-General may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or as may be necessary or convenient to be prescribed for giving effect to this Act or for the conduct of any business relating to the Customs, and in particular for prescribing—

- (a) the nature, size, and material of the packages in which imported goods or goods for export, or goods for conveyance coastwise from any State to any other State, are to be packed, or the coverings in which they are to be wrapped;
- (b) the maximum or minimum weight or quantity of imported goods, or goods for export, or goods for conveyance coastwise from any State to any other State which may be contained in any one package;
- (c) the conditions of preparation or manufacture for export of any articles used for food or drink by man or used in the manufacture of articles used for food or drink by man;
- (d) the conditions as to purity, soundness, and freedom from disease to be conformed to by goods for export; and
- (e) the conditions of carriage of goods subject to the control of the Customs, and the obligations of persons accepting such goods for carriage.

(2) The regulations may prescribe penalties not exceeding Two hundred and fifty dollars in respect of any contravention of any of the regulations.

Added by No. 36, 1910, s. 15; amended by No. 28, 1966, s. 4; and No. 54, 1967, s. 10.

271. Where—

- (a) an item of a Customs Tariff, or a proposed item of a Customs Tariff, is expressed to apply to goods, or to a class or kind of goods, as prescribed by by-law; or
- (b) under an item of a Customs Tariff, or a proposed item of a Customs Tariff, any matter or thing is expressed to be, or is to be determined, as prescribed or defined by by-law,

Minister may make by-laws.
Substituted by No. 47, 1953, s. 6; amended by No. 29, 1965, s. 13.

the Minister may, subject to the succeeding sections of this Part, make by-laws for the purposes of that item or proposed item.

272. The Minister may specify in a by-law made for the purposes of an item, or a proposed item, of a Customs Tariff that is expressed to apply to goods, or to a class or kind of goods, as prescribed by by-law—

By-laws specifying goods.

Inserted by No. 47, 1953, s. 6; amended by No. 29, 1965, s. 14.

- (a) the goods, or the class or kind of goods, to which that item or proposed item applies;
- (b) the conditions, if any, subject to which that item or proposed item applies to those goods or to goods included in that class or kind of goods; and
- (c) such other matters as are necessary to determine the goods to which that item or proposed item applies.

273. (1) The Minister may determine, by instrument in writing, that, subject to the conditions, if any, specified in the determination, an item, or a proposed item, of a Customs Tariff that is expressed to apply to goods, or to a class or kind of goods, as prescribed by by-law shall apply, or shall be deemed to have applied, to the particular goods specified in the determination.

Determinations.

Inserted by No. 47, 1953, s. 6. Sub-section (1) amended by No. 29, 1965, s. 15.

(2) The Minister may make a determination under the last preceding sub-section for the purposes of an item, or a proposed item, of a Customs Tariff whether or not he has made a by-law for the purposes of that item or proposed item.

(3) Where, under this section, the Minister determines that an item, or a proposed item, of a Customs Tariff shall apply, or shall be deemed to have applied, to goods, that item or proposed item shall, subject to this Part and to the conditions, if any, specified in the determination, apply, or be deemed to have applied, to those goods as if those goods were specified in a by-law made for the purposes of that item or proposed item and in force on the day on which those goods are or were entered for home consumption.

By-laws and determinations for purposes of repealed items.

Inserted by No. 47, 1953, s. 6.

273A. The Minister may make a by-law or determination for the purposes of an item of a Customs Tariff notwithstanding that the item has been repealed before the making of the by-law or determination, but the by-law shall not apply to, and the determination shall not be made in respect of, goods entered for home consumption after the repeal of that item.

Publication of by-laws and notification of determinations.

Inserted by No. 47, 1953, s. 6.

273B. (1) A by-law made under this Part—

(a) shall be published in the *Gazette*, and has no force until so published;

(b) shall, subject to this Part—

(i) take effect, or be deemed to have taken effect, from the date of publication, or from a date (whether before or after the date of publication) specified by or under the by-law; or

(ii) have effect or be deemed to have had effect, for such period (whether before or after the date of publication) as is specified by or under the by-law; and

(c) shall not be deemed to be a Statutory Rule within the meaning of the *Rules Publication Act* 1903-1939.

(2) Notice of the making of a determination under this Part shall be published in the *Gazette* as soon as practicable after the making of the determination and the notice shall specify—

(a) the kind of goods to which the determination applies;

(b) the conditions, if any, specified in the determination; and

(c) the item or proposed item for the purposes of which the determination was made.

Retrospective by-laws and determinations not to increase duty.

Inserted by No. 47, 1953, s. 6.

273C. This Part does not authorize the making of a by-law or determination which has the effect of imposing duty, in relation to goods entered for home consumption before the date on which the by-law is published in the *Gazette* or the determination is made, as the case may be, at a rate higher than the rate of duty payable in respect of those goods on the day on which those goods were entered for home consumption.

273D. Where—

- (a) a by-law or determination is made for the purposes of a Customs Tariff proposed in the Parliament or of a Customs Tariff as proposed to be altered by a Customs Tariff alteration proposed in the Parliament; and
- (b) the proposed Customs Tariff becomes a Customs Tariff or the proposed alteration is made, as the case may be,

the by-law or determination shall have effect for the purposes of that Customs Tariff or of that Customs Tariff as so altered, as the case may be, as if the by-law or determination had been made for those purposes and the proposed Customs Tariff or the Customs Tariff as proposed to be altered, as the case may be, had been in force on the day on which the by-law or the determination was made.

By-laws and determinations for purposes of proposals.
Inserted by No. 47, 1953, s. 6.

* * * * *

Section 273E repealed by No. 29, 1965, s. 16.

273EA. (1) The Minister may, at any time when the Parliament is prorogued or the House of Representatives has expired by effluxion of time, has been dissolved or is adjourned otherwise than for a period not exceeding seven days, publish in the *Gazette* a notice that it is intended, within seven sitting days of the House of Representatives after the date of the publication of the notice, to propose in the Parliament a Customs Tariff or Customs Tariff alteration in accordance with particulars specified in the notice and operating as from such time after the publication of the notice as is specified in the notice.

Notification of proposals when House of Representatives is not sitting.
Inserted by No. 42, 1960, s. 4.
Sub-section (1) amended by No. 48, 1963, s. 29.

(2) Where notice of intention to propose a Customs Tariff or a Customs Tariff alteration has been published in accordance with this section, the Customs Tariff or Customs Tariff alteration shall, for the purposes of this Act (other than section two hundred and twenty-six) and any other Act, be deemed to be a Customs Tariff or a Customs Tariff alteration, as the case may be, proposed in the Parliament.

273F. (1) In this Part—

“proposed item of a Customs Tariff” means—

- (a) an item of a Customs Tariff proposed in the Parliament; or
- (b) an item of a Customs Tariff as proposed to be altered by a Customs Tariff alteration proposed in the Parliament.

Interpretation.
Inserted by No. 47, 1953, s. 6.
Sub-section (1) amended by No. 29, 1965, s. 17.

(2) Unless the contrary intention appears, a reference in this Part to an item of a Customs Tariff shall be read as including a reference to a sub-item of such an item, a paragraph of such a sub-item and a subparagraph of such a paragraph.

Added by No. 29, 1965, s. 17.

PART XVII—MISCELLANEOUS

Commis-
sioned ships
and aircraft
to be
reported.

Amended by
No. 12, 1923,
s. 2; No. 56,
1950, s. 10; and
No. 14, 1968,
s. 3.

274. The person in command of any ship or aircraft holding commission from His Majesty or from any foreign State having on board any goods other than ship's or aircraft's stores laden in parts beyond the seas or in Australia shall when called upon by the Comptroller or the Collector of Customs for a State or Territory or an officer specially authorized by the Minister or the Comptroller or the Collector of Customs for a State or Territory so to do—

- (a) deliver an account in writing of the quantity of such goods, the marks and numbers thereof, and names of the shippers and consignees, and declare to the truth thereof;
- (b) answer questions relating to such goods.

Commis-
sioned ships
and aircraft
may be
searched.

Amended by
No. 12, 1923,
s. 2; and No. 56,
1950, s. 11.

275. Ships or aircraft under commission from His Majesty or any foreign State having on board any goods other than ships' or aircraft's stores laden in parts beyond the seas or in Australia may be boarded and searched by an officer especially authorized as mentioned in the last section in the same manner as other ships or aircraft, and the officer may bring any such goods ashore and place them in a King's Warehouse.

Direction not
to move a
ship or
aircraft from
a boarding
station.

Inserted by
No. 48, 1963,
s. 30.

275A. (1) Where a Collector considers that it is desirable, for the purposes of the Customs, to hold a ship or aircraft at a boarding station, the Collector may, by notice in writing delivered to the master of the ship or the pilot of the aircraft before it leaves the boarding station, direct the master or pilot not to move the ship or aircraft from the boarding station until the master or pilot receives permission, in writing, from a Collector to do so.

Amended by
No. 28, 1966,
s. 4.

(2) A person shall not disobey a direction given to him, and in force, under this section.

Penalty: One thousand dollars.

(3) Where a direction not to move a ship or aircraft from a boarding station has been given under sub-section (1) of this section—

- (a) the direction ceases to have any force or effect at the expiration of a period of three days after the day on which the direction is given; and
- (b) no further direction in respect of the ship or aircraft shall be given while the ship or aircraft remains at the boarding station.

Amended by
No. 14, 1968,
s. 3.

(4) Where a Collector (not being the Comptroller or the Collector of Customs for a State or Territory) gives a direction under sub-section (1) of this section not to move a ship or aircraft from a boarding station, the collector shall forthwith notify—

- (a) where the boarding station is in the Australian Capital Territory—the Comptroller;

- (b) where the boarding station is in a State—the Collector of Customs for the State; or
 - (c) where the boarding station is in the Northern Territory—the Collector of Customs for the Northern Territory,
- of the giving of the direction.

(5) Where—

- (a) a ship or aircraft is held at a boarding station by virtue of a direction given under sub-section (1) of this section; and
- (b) the Comptroller or the Collector of Customs for a State or Territory is satisfied that no purpose of the Customs is served by holding the ship or aircraft at the boarding station,

Amended by
No. 14, 1968,
s. 3.

he shall forthwith revoke the direction.

(6) In proceedings for an offence under this section with respect to a direction, a certificate by a person referred to in the last preceding sub-section that he is satisfied that, up to the time the offence is alleged to have been committed—

- (a) the permission referred to in the direction had not been given; and
- (b) the direction had not been revoked,

is evidence of the matters as to which the person has certified that he is satisfied.

276. As to sales by the Collector—

- (a) The goods shall be sold by auction or by tender and after such public notice as may be prescribed, and where not prescribed after reasonable public notice.
- (b) The goods may be sold either free of or subject to duty and charges and the price shall be paid in cash on the acceptance of the bidding or tender.
- (c) No bidding or tender shall be necessarily accepted and the goods may be re-offered until sold at a price satisfactory to the Collector.

Collectors' sales.

277. The proceeds of any goods sold by the Collector shall be applied as follows:—

Proceeds of sales.

Firstly, in the payment of the expenses of the sale.

Secondly, in payment of the duty.

Thirdly, in payment of the warehouse rent and charges.

Fourthly, in payment of the harbour and wharfage dues and freight if any due upon the goods if written notice of such harbour and wharfage dues and freight shall have been given to the Collector.

Amended by
No. 12, 1923,
s. 38.

And the balance if any shall be paid to the Treasurer on account of the person entitled thereto.

Examination of goods.

Added by No. 7,
1934, s. 24;
repealed by
No. 80, 1950,
s. 3; added by
No. 104, 1968,
s. 36.

278. The right of a person under this Act to examine goods includes the right to count, measure, weigh or gauge the goods.

SCHEDULES

SCHEDULE I

THE COMMONWEALTH OF AUSTRALIA

Security to the Customs

By this Security the subscribers are, pursuant to the *Customs Act* 1901, bound to the Customs of the Commonwealth of Australia in the sum of—[here insert amount or mode of ascertaining amount intended to be paid in default of compliance with condition]—subject only to this condition that if—[here insert the condition of the security]—then this security shall be thereby discharged.*

Dated the day of 19 .

Names and descriptions of subscribers	Signatures of subscribers	Signatures of witnesses

* NOTE—If liability is not intended to be joint and several and for the full amount, here state what is intended as, for example, thus—"The liability of the subscribers is joint only," or "the liability of (mentioning subscriber) is limited to (here state amount of limit of liability or mode of ascertaining limit)."

Schedule II
repealed by
No. 12, 1923,
s. 39.

* * * * *

SCHEDULE III

THE COMMONWEALTH OF AUSTRALIA

Writ of Assistance

His Majesty the King

To all Peace Officers, and to all whom it may concern: Greeting.

WE command you to permit A.B. of _____ an Officer of the Customs of the Commonwealth of Australia, and his assistants, and each and every of them at any time in the day or night to enter in and search any house premises or place and to break open and search the same and any chests trunks or packages in which goods may be or are supposed to be and to seize any goods forfeited to Us and any goods that he the said A.B. has

Amended by
No. 14, 1968,
s. 3.

reasonable cause to believe are forfeited to Us, and to take such goods to the nearest King's warehouse or to such other place of security as Our Collector of Customs for in Our said Commonwealth shall direct.

And We grant to the said A.B. all powers which are capable of being granted by a Writ of Assistance.

And We command all Peace Officers and all Our loving subjects in Our said Commonwealth of Australia upon sight of this Our Writ, and upon being so required by the said A.B. to be aiding and assisting the said A.B. in the matters aforesaid: Herein fail not at your peril:

And We declare that this Our Writ of Assistance shall remain in force so long as the said A.B. remains an Officer of Customs in Our Commonwealth of Australia whether in his present capacity or not.

Witness (*name and description of the Judge testing the writ*) at

the day of One thousand nine hundred and

(SEAL)

By the Court.

SCHEDULE IV

THE COMMONWEALTH OF AUSTRALIA

Customs Warrant

Amended by
No. 12, 1923,
s. 40; No. 66,
1954, s. 5;
No. 37, 1957,
s. 12; and
No. 48, 1963,
s. 31.

To

You are hereby authorized to enter into, at any time in the day or night, if necessary, and search any house, premises, or place; and to break open the same, and any chests, trunks, or packages in which goods may be or are supposed to be and to seize and take away any forfeited goods or goods which you have reasonable grounds to believe are forfeited, you may find therein, and forthwith to put and secure the same in the King's warehouse, or such other place of security as the Collector may direct: And for so doing this shall be your sufficient warrant.

This warrant has force throughout

This warrant shall remain in force for a period of
thereof unless revoked before the expiration of that period.

from the date

Dated this day of in the year One thousand
nine hundred and

(CUSTOMS STAMP)

Signature.

Added by
No. 12, 1923,
s. 41; amended
by No. 56, 1950,
s. 12; and
No. 48, 1963,
s. 32.

SCHEDULE V
THE COMMONWEALTH OF AUSTRALIA
Customs Warrant

To

WHEREAS information in writing has been given on oath to me that goods have been unlawfully imported, exported, undervalued or entered or illegally dealt with or that it is intended to unlawfully import, export, undervalue or enter or illegally deal with goods, (or

Whereas goods have been seized or detained)

You are hereby authorized, in the event of _____ failing to comply immediately with any requirement made in pursuance of section two hundred and fourteen of the *Customs Act* 1901-1923, to enter into, at any time of the day or night, and search, any house premises or place in which any books or documents relating to the goods are or are supposed to be; and to break open any such house premises or place and search any person therein or thereon and any chests trunks or packages therein or thereon; and to take possession of, remove and impound any of those books and documents which are found: And for so doing this shall be your sufficient warrant.

This warrant has force throughout

This warrant shall remain in force for a period of one month from the date thereof unless revoked before the expiration of that period.

Dated this day of 19

(CUSTOMS STAMP)

(Signature)

SCHEDULE VI

Added by
No. 134, 1971,
s. 9.

Section 4

Column 1 Name of substance	Column 2 Trafficable quantity
	Grammes
Acetorphine	0.5
Acetyldihydrocodeine	0.5
Acetylmethadol	0.5
Allylprodine	0.5
Alphacetylmethadol	2.0
Alphameprodine	0.05
Alphamethadol	0.05
Alpha prodine	6.0
Amphecloral	0.5
3-(2-Aminopropyl) indole	2.0
Amphetamine	0.5
Aniferidine	6.0
Barbituric acid	50.0
Benzethidine	2.5
Benzylmorphine	1.5
Betacetylmethadol	1.5
Betameprodine	1.5
Betamethadol	1.5
Betaprodine	1.25
Bezitramide	1.25
Bufotenine	0.7
Cannabinoids	0.1
Cannabis	25.0
Cannabis resin	5.0
Chlorphentermine	0.5

Column 1 Name of substance	Column 2 Trafficable quantity
	Grammes
Clonitazene	1.25
Cocaine	0.5
Codeine	3.0
Codeine-N-oxide	3.0
Codoxime	3.0
Desomorphine	0.5
Diacetylmorphine	0.5
Diampromide	1.0
Diethylpropion	1.25
Diethylthiambutene	1.0
N, N-Diethyltryptamine	3.0
Dihydrocodeine	3.0
Dihydromorphine	3.0
Dimenoxadol	3.0
Dimepheptanol	3.0
2, 5-Dimethoxy-4-methylamphetamine	0.5
Dimethylthiambutene	5.0
N, N-Dimethyltryptamine	3.0
Dioxaphetyl butyrate	0.7
Diphenoxylate	0.5
Dipipanone	2.5
Ecgonine	2.5
Ethylmethylthiambutene	2.5
Ethylmorphine	0.5
Etonitazene	1.5
Etorphine	1.5
Etoxeridine	1.5
Fentanyl	0.005
Furethidine	0.3
Harmaline	1.25
Harmine	3.0
Hydrocodone	0.5
Hydromorphanol	0.5
Hydromorphone	0.1
Hydroxyamphetamine	0.5
Hydroxypethidine	1.0
Ketobemidone	0.5
Levorphanol	0.25
Lysergic acid	0.001
Lysergide	0.001
Mescaline	7.5
Metazocine	7.0
Methadone	0.5
Methorphan	0.75
Methylamphetamine	0.5
Methyldesorphine	0.5
Methyldihydromorphine	0.5
Methylphenidate	0.5
Metopon	0.3
Moramide	0.5
Morpheridine	0.3
Morphine	0.5
Morphine-N-oxide	0.5
Myrophine	5.0
Nicocodine	0.5
Nicodicodine	0.5
Nicomorphine	0.5
Noracymethadol	0.5
Norcodeine	0.5
Norlevorphanol	0.5
Normethadone	1.0
Normorphine	20.0

Column 1 Name of substance	Column 2 Trafficable quantity
	Grammes
Norpipanone	10.0
Opium	5.0
Oxycodone	1.5
Oxymorphone	0.5
Pethidine	2.5
Phenadoxone	2.5
Phenampromide	15.0
Phenazocine	0.25
Phendimetrazine	1.25
Phenmetrazine	1.25
Phenomorphan	1.25
Phenoperidine	0.25
Pholcodine	1.0
Piminodine	2.5
Pipradrol	0.3
Piritramide	0.3
Proheptazine	0.3
Properidine	25.0
Psilocin	0.1
Psilocybin	0.1
Thebacon	0.5
Thebaine	0.75
Trimeperidine	3.0

NOTES

1. The *Customs Act 1901-1973* comprises the *Customs Act 1901* as amended by the other Acts specified in the following table:

Act	Number and year	Date of Assent	Date of commencement
<i>Customs Act 1901</i>	No. 6, 1901	3 Oct 1901	4 Oct 1901 (see <i>Gazette</i> 1901, p. 165)
<i>Spirits Act 1906</i>	No. 21, 1906	12 Oct 1906	1 Jan 1907 (see <i>Gazette</i> 1907, p. 1)
<i>Customs (Inter-State Accounts) Act 1910</i>	No. 9, 1910	7 Sept 1910	7 Sept 1910
<i>Customs Act 1910</i>	No. 36, 1910	1 Dec 1910	1 Dec 1910
<i>Customs Act 1914</i>	No. 19, 1914	7 Dec 1914	7 Dec 1914
<i>Customs Act 1916</i>	No. 10, 1916	30 May 1916	30 May 1916
<i>Customs Act 1920</i>	No. 41, 1920	10 Nov 1920	(a)
<i>Customs Act 1922</i>	No. 19, 1922	9 Oct 1922	9 Oct 1922
<i>Customs Act 1923</i>	No. 12, 1923	17 Aug 1923	17 Aug 1923
<i>Customs Act 1925</i>	No. 22, 1925	26 Sept 1925	26 Sept 1925
<i>Customs Act 1930</i>	No. 6, 1930	29 Mar 1930	29 Mar 1930
<i>Customs Act 1934</i>	No. 7, 1934	24 July 1934	24 July 1934
<i>Statute Law Revision Act 1934</i>	No. 45, 1934	6 Aug 1934	6 Aug 1934
<i>Customs Act 1935</i>	No. 7, 1935	5 April 1935	1 Jan 1935
<i>Customs Act 1936</i>	No. 85, 1936	7 Dec 1936	7 Dec 1936
<i>Customs Act 1947</i>	No. 54, 1947	13 Nov 1947	15 Nov 1947 (see <i>Gazette</i> 1947, p. 3377)
<i>Customs Act 1949</i>	No. 45, 1949	27 Oct 1949	1 Apr 1950 (see <i>Gazette</i> 1950, p. 723)
<i>Customs Act 1950</i>	No. 56, 1950	14 Dec 1950	30 Nov 1950
<i>Statute Law Revision Act 1950</i>	No. 80, 1950	16 Dec 1950	31 Dec 1950
<i>Customs Act 1951</i>	No. 56, 1951	11 Dec 1951	11 Dec 1951

Act	Number and year	Date of Assent	Date of commencement
<i>Customs Act 1952</i>	No. 108, 1952	19 Nov 1952	Ss. 7 and 11: 14 Dec 1956 (<i>see Gazette</i> 1956, p. 3889) Remainder: Royal Assent
<i>Customs Act 1953</i>	No. 47, 1953	26 Oct 1953	23 Nov 1953
<i>Customs Act 1954</i>	No. 66, 1954	8 Nov 1954	6 Dec 1954
<i>Customs Act 1957</i>	No. 37, 1957	7 June 1957	S. 4: 7 Sept 1957 Remainder: Royal Assent
<i>Customs Act 1959</i>	No. 54, 1959	22 May 1959	(b)
<i>Customs Act 1960</i>	No. 42, 1960	5 Sept 1960	5 Sept 1960
<i>Customs Act (No. 2) 1960</i>	No. 111, 1960	19 Dec 1960	(c)
<i>Customs Act 1963</i>	No. 48, 1963	16 Oct 1963	(d)
<i>Customs Act 1965</i>	No. 29, 1965	2 June 1965	1 July 1965
<i>Customs Act (No. 2) 1965</i>	No. 82, 1965	30 Nov 1965	12 Apr 1966 (<i>see Gazette</i> 1966, p. 1963)
<i>Customs Act (No. 3) 1965</i>	No. 133, 1965	18 Dec 1965	14 Feb 1966
<i>Customs Act 1966</i>	No. 28, 1966	24 May 1966	S. 3: 16 June 1966 (<i>see Gazette</i> 1966, p. 3165) Remainder: Royal Assent
<i>Customs Act 1967</i>	No. 54, 1967	30 May 1967	30 May 1967
<i>Customs Act 1968</i>	No. 14, 1968	16 May 1968	13 June 1968
<i>Customs Act (No. 2) 1968</i>	No. 104, 1968	2 Dec 1968	(e)
<i>Customs Act 1971</i>	No. 12, 1971	5 Apr 1971	Ss. 1, 2, 3 and 5: Royal Assent s. 4: 1 July 1974 (<i>see Gazette</i> 1974, No. 53D, p. 1)
<i>Customs Act (No. 2) 1971</i>	No. 134, 1971	16 Dec 1971	13 Jan 1972
<i>Customs Act 1973</i>	No. 162, 1973	7 Dec 1973	7 Dec 1973
<i>Statute Law Revision Act 1973</i>	No. 216, 1973	19 Dec 1973	31 Dec 1973

(a) The *Customs Act 1920*, which was expressed to amend section 4 and to insert sections 157A to 157F, was to commence on a day to be fixed by Proclamation. A Proclamation fixing 11 November 1920 as the day of commencement was ineffective as it was published in the *Gazette* on 12 November 1920. The *Customs Act 1920* was later repealed by the *Customs Act 1923*.

(b) Section 2 of the *Customs Act 1959* provides as follows:

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

“(2) Sections three, four, nine, ten, eleven, thirteen, fifteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four and twenty-nine of this Act shall come into operation on a date to be fixed by Proclamation.

“(3) Sections six, seven, eight and seventeen of this Act shall come into operation on the first day of January, One thousand nine hundred and sixty.”

The date fixed under sub-section 2 (2) was 1 September 1960 (*see Gazette* 1960, p. 3065).

(c) By section 2 of the *Customs Act (No. 2) 1960*, that Act, except section 3 and the amendment made by section 7, commenced on 19 December 1960. Section 3 commenced on a date fixed by Proclamation. The date fixed was 30 November 1961 (*see Gazette* 1961, p. 4309). The amendment made by section 7 is deemed to have commenced on 18 June 1958.

(d) Section 2 of the *Customs Act 1963* provides as follows:

“2. (1) Except as provided by this section, this Act shall come into operation on the day on which it receives the Royal Assent.

“(2) Section five, sub-section (1) of section fourteen and sections fifteen, sixteen, twenty, twenty-two, thirty-one and thirty-two of this Act shall come into operation on such dates as are respectively fixed by Proclamation.”

Sections 5, 20, 22, 31 and 32 of the *Customs Act* 1963 were proclaimed to commence on 1 July 1964 (*see Gazette* 1964, p. 2348). The remaining provisions referred to in sub-section 2 (2) of the *Customs Act* 1963 were proclaimed to commence on 1 September 1965 (*see Gazette* 1965, p. 3767).

- (e) Section 2 of the *Customs Act* (No. 2) 1968 provides as follows:

“2. (1) Sections 1, 2, 31 and 37 of this Act shall come into operation on the day on which this Act receives the Royal Assent.

“(2) Sections 29 and 30 of this Act shall be deemed to have come into operation on the eighteenth day of June, One thousand nine hundred and sixty-eight.

“(3) The remaining provisions of this Act shall come into operation on a date to be fixed by Proclamation.”

The date fixed under sub-section 2 (3) was 1 October 1969 (*see Gazette* 1969, p. 5771).

2. Section 15 was amended by sub-section 20 (1) of, and the Schedule to, the *Customs Act* 1952. Sub-section 20 (2) of that Act provides as follows:

“(2) All places which were, immediately before the commencement of this Act, aerodromes appointed by proclamations in force under section fifteen of the Principal Act shall be deemed to be airports appointed under section fifteen of the Principal Act as amended by this Act.”

Section 15 was further amended by sub-section 5 (1) of the *Customs Act* 1959. Sub-section 5 (2) of that Act provides as follows:

“(2) A Proclamation made or purporting to have been made before the date of commencement of this section under section fifteen of the *Customs Act* 1901, or of that Act as amended, for the purpose of appointing a wharf or fixing the limits of a wharf shall, on and after that date, be, and be deemed at all times to have been, as valid and effectual as if made under section fifteen of the Principal Act as amended by this section.”