

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

(As read a first time)

CUSTOMS AND EXCISE LEGISLATION AMENDMENT BILL 1988

TABLE OF PROVISIONS

PART I—PRELIMINARY

Section

1. Short title
2. Commencement

PART II—AMENDMENTS OF THE CUSTOMS ACT 1901

3. Principal Act
4. Interpretation
5. Repeal of section 9 and substitution of new section:
 9. Delegation by Minister
6. Exemptions under Torres Strait treaty
7. Prohibition of the importation of goods
8. Prohibited exports
9. Manner of fixing duty
10. Insertion of new section:
 137. Manner of determining volumes of, and fixing duty on, beer
11. When goods treated as the produce or manufacture of a country
12. Rebate of duty in respect of diesel fuel used for certain purposes
13. Interpretation
14. Renewal of licence
15. Investigation of matters relating to an agents licence
16. Interim suspension by Comptroller
17. National Customs Agents Licensing Advisory Committee
18. Power to board and search
19. Collector may retain goods and require owner to proceed for restoration
20. Forfeited ships and aircraft
21. Forfeited goods
22. Insertion of new section:
 - 233BA. Evidence of analyst

TABLE OF PROVISIONS—*continued*

Section	
23.	Customs offences
24.	Institution of prosecutions
25.	Repeal of section 245A
26.	Undertakings relating to tenders
27.	Regulations

PART III—AMENDMENTS OF THE EXCISE ACT 1901

28.	Principal Act
29.	Interpretation
30.	Insertion of new section: 54A. Liability of Commonwealth authorities to pay Excise duty
31.	Entry for home consumption etc.
32.	Interpretation
33.	Repeal of section 77B and substitution of new section: 77B. Manner of determining volumes of, and fixing duty on, beer
34.	Marking and labelling of containers and packages
35.	Spoilt beer
36.	Disposal of beer by Collector on cancellation etc. of licence
37.	Rebate of duty in respect of diesel fuel used for certain purposes
38.	Officers to have access to factories and approved places
39.	Offences
40.	Institution of prosecutions
41.	Repeal of section 134A

PART IV—AMENDMENT OF OFF-SHORE INSTALLATIONS
(MISCELLANEOUS AMENDMENTS) ACT 1982

42.	Principal Act
43.	Amendment of section 5

1987-88

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 7 November 1988

(Minister for Science, Customs and Small Business)

A BILL

FOR

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

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

PART I—PRELIMINARY

Short title

- 5 **1.** This Act may be cited as the *Customs and Excise Legislation Amendment Act 1988*.

Commencement

- 10 **2. (1)** Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (2)** Section 6 shall be taken to have commenced on 8 July 1988.
- (3)** Paragraph 8 (1) (a) shall be taken to have commenced on 27 August 1987.
- (4)** Section 11 commences on 1 January 1989.

(5) Section 18 shall be taken to have commenced on 15 October 1987.

(6) Paragraph 29 (b) and section 30 commence on 1 July 1989.

(7) Paragraph 4 (b) and sections 9, 10 and 32 to 36 (inclusive) commence on 1 February 1989.

(8) Part IV shall be taken to have commenced on the twenty-eighth day after the *Off-shore Installations (Miscellaneous Amendments) Act 1982* received the Royal Assent. 5

PART II—AMENDMENTS OF THE CUSTOMS ACT 1901

Principal Act

3. In this Part, “Principal Act” means the *Customs Act 1901*¹. 10

Interpretation

4. Section 4 of the Principal Act is amended:

(a) by omitting from subsection (1) the definition of “‘Officer’ or ‘Officer of Customs’” and substituting the following definitions:

“‘Officer’ means an officer of Customs; 15

‘Officer of Customs’ means a person:

(a) employed in the Customs; or

(b) authorised in writing by the Comptroller to perform all of the functions of an officer of Customs;

and includes: 20

(c) in relation to a provision of a Customs Act, a person authorised in writing by the Comptroller to perform the functions of an officer of Customs under that provision; or

(d) in relation to a power conferred by a provision of a Customs Act, a person authorised in writing by the Comptroller to perform the functions of an officer of Customs in relation to the exercise of that power;” 25

(b) by inserting in subsection (1) the following definition:

“‘Beer’ means any liquor on which, under the name of beer, any duty of Customs imposed by the Parliament is payable;” 30

5. (1) Section 9 of the Principal Act is repealed and the following section is substituted:

Delegation by Minister

“9. (1) The Minister may, by signed instrument, delegate to any person all or any of the functions and powers of the Minister under the Customs Acts. 35

“(2) A function or power so delegated, when performed or exercised by the delegate, shall, for the purposes of the Customs Acts, be deemed to have been performed or exercised by the Minister.

5 “(3) Paragraph 34AB (c) of the *Acts Interpretation Act 1901* does not apply to a delegation under subsection (1).”.

(2) A delegation by the Minister under section 9 of the Principal Act and in force immediately before the commencement of this section continues in force after that commencement as if it were given under section 9 of the Principal Act as amended by subsection (1).

10 **Exemptions under Torres Strait treaty**

6. Section 30A of the Principal Act is amended by inserting in sub-subparagraph (4) (b) (ii) (B) “or flight” after “voyage”.

Prohibition of the importation of goods

15 7. Section 50 of the Principal Act is amended by inserting after paragraph (2) (a) the following paragraph:

“(aa) by prohibiting the importation of goods in specified circumstances;”.

Prohibited exports

8. (1) Section 112 of the Principal Act is amended:

20 (a) by inserting after paragraph (2) (a) the following paragraph:

“(aa) by prohibiting the exportation of goods in specified circumstances;”;

(b) by inserting after subsection (2A) the following subsections:

25 “(2AB) It is a condition of any licence or permission to export goods, being a licence or permission granted under paragraph (2) (c) by the Minister for Defence or an authorised person within the meaning of subregulation 13B (1) of the Customs (Prohibited Exports) Regulations after the commencement of this subsection, that the Minister for Defence may, at any time, by notice:

30 (a) published:

(i) in the *Gazette*; and

(ii) in each State and internal Territory, in a newspaper circulating throughout that State or Territory; and

35 (b) in writing given to the holder of the licence or permission; inform the holder that, with effect from a day specified in the notice, all goods to which the licence or permission relates, or such kinds of those goods as are specified in the notice, shall not be exported to a specified place because in the opinion of the Minister for Defence:

40 (c) a situation in that place; or

- (d) a situation in another place to which there is a reasonable likelihood that such goods will be re-exported from that specified place;

makes the exportation of such goods from Australia contrary to the national interest, and, where the Minister for Defence gives such a notice, the authority of the holder to export such goods to that specified place shall be taken to have been withdrawn until the Minister for Defence, by further notice in writing given to the holder, revokes the original notice.

“(2AC) The day specified in a notice under subsection (2AB) shall be a day not earlier than the day on which the notice is published in the *Gazette* under subparagraph (2AB) (a) (i).”

“(2AD) Any failure to comply with the requirements of paragraph (2AB) (b) in relation to a notice under subsection (2AB) does not affect the validity of the notice.”

(2) For the purpose of determining the validity of regulation 13G of the Customs (Prohibited Exports) Regulations, that regulation shall be taken to have been made under section 112 of the Principal Act as amended by subsection (1).

Manner of fixing duty

9. Section 136 of the Principal Act is amended by inserting “(other than beer that is entered for home consumption after 31 January 1989)” after “goods”.

10. After section 136 of the Principal Act the following section is inserted:

Manner of determining volumes of, and fixing duty on, beer

“137. (1) For the purposes of the Customs Acts in their application to beer that is entered for home consumption after 31 January 1989 in a bulk container, the container in which the beer is packaged shall be treated as containing:

(a) if the volume of the contents of the container is nominated for the purpose of the entry, the beer is entered before 1 July 1991 and the actual volume of the contents of the container does not exceed 101.5% of the nominated volume—the nominated volume;

(b) if the volume of the contents of the container is nominated for the purpose of the entry, the beer is entered before 1 July 1991 and the actual volume of the contents of the container exceeds 101.5% of the nominated volume—a volume equal to the sum of:

(i) the nominated volume; and

(ii) the volume by which the actual volume of the contents of the container exceeds 101.5% of the nominated volume;

(c) if the volume of the contents of the container is nominated for the purpose of the entry, the beer is entered after 30 June 1991 and the

actual volume of the contents of the container does not exceed 101% of the nominated volume—the nominated volume;

5 (d) if the volume of the contents of the container is nominated for the purpose of the entry, the beer is entered after 30 June 1991 and the actual volume of the contents of the container exceeds 101% of the nominated volume—a volume equal to the sum of:

(i) the nominated volume; and

(ii) the volume by which the actual volume of the contents of the container exceeds 101% of the nominated volume; or

10 (e) if the volume of the contents of the container is not nominated for the purpose of the entry—the actual volume of the contents of the container;

and duty on beer so entered shall be fixed accordingly.

15 “(2) For the purposes of the application of the Customs Acts in their application to beer that is entered for home consumption after 31 January 1989 in a container other than a bulk container, the container in which the beer is packaged shall be treated as containing:

20 (a) if the volume of the contents of the container is indicated on a label printed on, or attached to, the container and the actual volume of the contents of the container does not exceed 101.5% of the volume so indicated—the volume so indicated;

25 (b) if the volume of the contents of the container is indicated on a label printed on, or attached to, the container and the actual volume of the contents of the container exceeds 101.5% of the volume so indicated—a volume equal to the sum of:

(i) the volume so indicated; and

(ii) the volume by which the actual volume of the contents of the container exceeds 101.5% of the volume so indicated; or

30 (c) if the volume of the contents of the container is not indicated on a label printed on, or attached to, the container—the actual volume of the contents of the container;

and duty on beer so entered shall be fixed accordingly.

35 “(3) In determining, for the purposes of this section, the volume of the contents of containers entered for home consumption, the Customs is not required to take a measurement of the contents of each container so entered but may employ such methods of sampling as are approved in writing by the Comptroller for the purpose.

“(4) In this section:

40 ‘bulk container’, in relation to beer, means a container that has the capacity to have packaged in it more than 2 litres of beer;

‘container’, in relation to beer, includes a bottle, a can or any other article capable of holding liquids.”

When goods treated as the produce or manufacture of a country _____

11. Section 151 of the Principal Act is amended:

- (a) by omitting from subsection (12) “For the purposes of this Act” and substituting “Subject to subsection (12A), for the purposes of this Act”;
- (b) by inserting after subsection (12) the following subsection:

“(12A) In its application to Christmas Island, subsection (12) shall have effect as if the reference to 75% in paragraph (b) of that subsection were a reference to 50%.”.

Rebate of duty in respect of diesel fuel used for certain purposes 10

12. (1) Section 164 of the Principal Act is amended:

- (a) by omitting from subsection (4) “because only that” and substituting “only because”;
- (b) by inserting after subsection (4) the following subsection:

“(4AA) Rebate is not payable to a person in respect of diesel fuel unless the application for the rebate: 15

- (a) is made in accordance with an approved form;
- (b) includes such information as is required by the form;
- (c) is signed and witnessed in the manner indicated in the form; and
- (d) is given to an officer.”;

- (c) by omitting paragraphs (4A) (a), (b) and (c). 20

Interpretation

13. Section 180 of the Principal Act is amended by inserting in subsection (2) “, other than in subsection 181 (2), 183CC (5), 183CJ (1), 183CQ (4), (5) or (7) or 183CR (3) or in section 183CS, 183D, 183DA, 183DC, 183DD or 183S,” after “Part”. 25

Renewal of licence

14. Section 183CJ of the Principal Act is amended by omitting subsection (1) and substituting the following subsection: 30

“(1) Where a customs agent, within one month before the date on which his or her agents licence is due to expire, applies in writing to the Comptroller, or to a Collector of Customs for a State or Territory, for the renewal of the licence:

- (a) if the application is made to the Comptroller—the Comptroller or the Collector to whom the Comptroller refers the application; or 35
- (b) if the application is made to a Collector—the Comptroller or that Collector;

shall, by writing, renew the licence unless:

- (c) the Comptroller has given an order under paragraph 183CS (1) (d) in relation to the licence; or 40

- (d) the customs agent is, because of section 183CK, not entitled to hold an agents licence.”.

Investigation of matters relating to an agents licence

15. Section 183CQ of the Principal Act is amended:

- 5 (a) by omitting from paragraph (4) (b) “Comptroller” (first occurring) and substituting “person who gave the notice”;
- (b) by omitting from paragraph (4) (b) “(1) of section 183CS” and substituting “183CS (1)”;
- 10 (c) by inserting in subsection (5) “, or a Collector of Customs for a State or Territory,” after “Comptroller” (first occurring).

Interim suspension by Comptroller

16. Section 183CR of the Principal Act is amended by inserting in subsection (3) “, or by a Collector of Customs for a State or Territory,” after “Comptroller” (first and second occurring).

15 **National Customs Agents Licensing Advisory Committee**

17. Section 183D of the Principal Act is amended:

- (a) by inserting in paragraph (2) (a) “, or a Collector of Customs for a State or Territory,” after “Comptroller”;
- 20 (b) by inserting in paragraph (2) (b) “, or a Collector of Customs for a State or Territory,” after “Comptroller”.

Power to board and search

18. Section 187 of the Principal Act is amended by omitting “an resources installation” and substituting “a resources installation”.

Collector may retain goods and require owner to proceed for restoration

25 19. Section 208A of the Principal Act is amended:

- (a) by omitting from paragraph (1) (b) “may”;
- (b) by inserting after subsection (1) the following subsection:

30 “(1A) Where, in an action of a kind referred to in paragraph (1) (b) for the recovery of goods that are forfeited by reason, and only by reason, of the operation of paragraph 229 (1) (i), the court is satisfied that the person who made, or omitted a matter or thing from, the statement by reason of which the goods were forfeited:

(a) did not know; and

(b) could not reasonably be expected to have known;

35 that the statement was false or misleading, or that the omission from the statement was misleading, as the case may be, the court shall order that the goods shall cease to be forfeited and, where the court so orders, the goods shall forthwith cease to be forfeited.”;

- 40 (c) by omitting from paragraph (3) (b) all the words from and including “seeking” and substituting the following:

“seeking:

- (i) a declaration that the goods are not forfeited; or
- (ii) an order that the goods cease to be forfeited”;

(d) by inserting after subsection (3) the following subsection:

“(3A) Where, in an action of a kind referred to in subparagraph (3) (b) (ii) in respect of goods that are forfeited by reason, and only by reason, of the operation of paragraph 229 (1) (i), the court is satisfied that the person who made, or omitted a matter or thing from, the statement by reason of which the goods were forfeited:

(a) did not know; and

(b) could not reasonably be expected to have known;

that the statement was false or misleading, or that the omission from the statement was misleading, as the case may be, the court shall order that the goods shall cease to be forfeited and, where the court so orders, the goods shall forthwith cease to be forfeited and any security given under section 208 shall be returned, repaid, released or otherwise discharged.”;

(e) by omitting from paragraph (4) (b) “seeking a declaration that the goods are not forfeited,” and substituting the following:

“seeking:

- (i) a declaration that the goods are not forfeited; or
- (ii) an order that the goods cease to be forfeited”.

Forfeited ships and aircraft

20. Section 228 of the Principal Act is amended:

(a) by omitting “250 tons registered tonnage” (wherever occurring) and substituting “80 metres in overall length”;

(b) by omitting “\$10,000” and substituting “\$100,000”;

(c) by adding at the end the following subsection:

“(2) For the purposes of this section, the length of a ship shall be ascertained by measuring the distance between:

(a) a vertical line passing through a point, being the foremost part of the stem; and

(b) a vertical line passing through a point, being the aftermost part of the stern.”.

Forfeited goods

21. Section 229 of the Principal Act is amended by omitting paragraph (1) (i) and substituting the following paragraph:

“(i) All goods in respect of which a statement has been made to an officer that is false or misleading in a material particular or from which has been omitted any matter or thing without which the statement is misleading in a material particular.”.

22. After section 233B of the Principal Act the following section is inserted:

Evidence of analyst

5 “233BA. (1) The Comptroller may appoint a person to be an analyst for the purposes of this Act.

10 “(2) Subject to subsection (4), a certificate of an analyst stating that he or she has analysed or examined a substance, setting out the date on which the analysis or examination was carried out, describing the method employed in conducting the analysis or examination, and stating the result of the analysis or examination, is admissible in any proceeding under section 233B as *prima facie* evidence of the matters in the certificate and of the correctness of the result of the analysis or examination.

15 “(3) For the purposes of this section, a document purporting to be a certificate referred to in subsection (2) shall, unless the contrary is established, be deemed to be such a certificate and to have been duly given.

20 “(4) A certificate shall not be admitted in evidence under subsection (2) in proceedings for an offence unless the person charged with the offence or a solicitor who has appeared for the person in those proceedings has, at least 14 days before the certificate is sought to be so admitted, been given a copy of the certificate together with reasonable notice of the intention to produce the certificate as evidence in the proceedings.

25 “(5) Subject to subsection (6), where, under subsection (2), a certificate of an analyst is admitted in evidence in a proceeding for an offence, the person charged with the offence may require the analyst to be called as a witness for the prosecution and the analyst may be cross-examined as if he or she had given evidence of the matters stated in the certificate.

“(6) Subsection (5) does not entitle a person to require an analyst to be called as a witness for the prosecution unless:

- 30 (a) the prosecutor has been given at least 4 days notice of the person’s intention to require the analyst to be so called; or
(b) the Court, by order, allows the person to require the analyst to be so called.”.

Customs offences

23. Section 234 of the Principal Act is amended:

35 (a) by omitting paragraphs (1) (d), (e) and (f) and substituting the following paragraphs:

- 40 “(d) make a statement to an officer that is false or misleading in a material particular;
(e) omit from such a statement made to an officer any matter or thing without which the statement is misleading in a material particular;”;

- (b) by omitting from paragraph (2) (c) “, (e) or (f)” and substituting “or (e)”;
 - (c) by adding at the end the following subsection:
 - “(3) In a prosecution of a person for an offence against paragraph (1) (d) or (e), it is a defence if the person proves that the person: 5
 - (a) did not know; and
 - (b) could not reasonably be expected to have known;
- that:
- (c) where the prosecution is for an offence against paragraph (1) (d)—the statement was false or misleading; or 10
 - (d) where the prosecution is for an offence against paragraph (1) (e)—the omission from the statement was misleading.”.

Institution of prosecutions

- 24.** (1) Section 245 of the Principal Act is amended:
- (a) by inserting in subsection (1) “by the Comptroller” after “instituted”; 15
 - (b) by omitting from paragraph (1) (d) “or”;
 - (c) by adding at the end of subsection (1) the following word and paragraph:
 - “; or (f) in a court of summary jurisdiction of a State, of the Australian Capital Territory or of the Northern Territory”; 20
 - (d) by omitting subsection (3);
 - (e) by omitting from subsection (4) “subsection (3)” and substituting “paragraph (1) (f)”.

(2) Where, before the commencement of this section and section 25, a prosecution has been instituted under section 245 of the Principal Act by a person in the name of the Comptroller-General of Customs or of a Collector of Customs, that person may continue that prosecution after the commencement as if the amendments made by subsection (1) and the repeal effected by section 25 had not been made or effected. 30

Repeal of section 245A

- 25.** Section 245A of the Principal Act is repealed.

Undertakings relating to tenders

- 26.** Section 267 of the Principal Act is amended:
- (a) by omitting from subsection (1) all the words after paragraph (1) (b) and substituting the following: “the person will, during that period, or each of those periods, as the case may be, enter for home consumption under: 35
 - (c) any of those items, or proposed items; or
 - (d) any appropriate item, or proposed item, of a Customs Tariff that is not expressed to apply to goods as prescribed by by-law; 40

that quantity of those goods, or the quantity of those goods having that value”;

- (b) by omitting from subsection (2) “by the Minister”;
- (c) by omitting from subsection (2) “subsection (2) of section 266” and substituting “subsection 266 (2)”;
- (d) by omitting from subsection (3) “by the Minister”.

Regulations

27. Section 270 of the Principal Act is amended by inserting after subsection (3) the following subsection:

“(3A) Where, in any regulations made for the purposes of this Act, reference is made to the document known as the Australian Harmonized Export Commodity Classification published by the Australian Bureau of Statistics, that reference shall, unless the contrary intention appears in those regulations, be read as a reference to that document as so published and as in force from time to time.”.

PART III—AMENDMENTS OF THE EXCISE ACT 1901

Principal Act

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

Interpretation

29. Section 4 of the Principal Act is amended:

- (a) by omitting from subsection (1) the definition of “‘Officer’ or ‘Officer of Customs’” and substituting the following definitions:

“‘Officer’ means an officer of Customs;

‘Officer of Customs’ means a person:

- (a) employed in the Customs; or
- (b) authorised in writing by the Comptroller to perform all of the functions of an officer of Customs;

and includes:

- (c) in relation to a provision of an Excise Act, a person authorised in writing by the Comptroller to perform the functions of an officer of Customs under that provision; or
- (d) in relation to a power conferred by a provision of an Excise Act, a person authorised in writing by the Comptroller to perform the functions of an officer of Customs in relation to the exercise of that power;”;

- (b) by inserting in subsection (1) the following definition:

“‘Commonwealth authority’ means an authority or body established for a purpose of the Commonwealth by or under a law of the Commonwealth (including an Ordinance of the Australian Capital Territory);”.

30. After section 54 of the Principal Act the following section is inserted:

Liability of Commonwealth authorities to pay Excise duty

“54A. (1) Subject to subsection (2), to the extent that, but for this section, an Act (whether enacted before, on or after 1 July 1989) would:

- (a) exempt a particular Commonwealth authority from liability to pay Excise duty; or 5
- (b) exempt a person from liability to pay Excise duty in relation to goods for use by a particular Commonwealth authority;

then, by force of this section, the exemption has no effect.

“(2) Subsection (1) does not apply to an exemption if: 10

- (a) the provision containing the exemption is enacted after 30 June 1989; and
- (b) the exemption expressly refers to Excise duty (however described).”.

Entry for home consumption etc.

31. Section 58 of the Principal Act is amended by inserting after subsection (1) the following subsection: 15

“(1A) An entry in subsection (1):

- (a) shall be made in accordance with a form, or in a manner, approved by the Comptroller;
- (b) shall contain such information as is required by the Comptroller; 20
- (c) shall be signed or authorised in a manner required by the Comptroller; and
- (d) shall be lodged with, or transmitted to, the Customs.”.

Interpretation

32. Section 77A of the Principal Act is amended: 25

- (a) by omitting the definitions of “barrel”, “half-hogshead”, “hogshead” “kilderkin” and “vessel”;
- (b) by inserting in subsection (1) the following definitions:

“‘bulk container’ means a container that has the capacity to have packaged in it more than 2 litres of beer; 30

‘container’ includes a bottle, a can or any other article capable of holding liquids;”.

33. Section 77B of the Principal Act is repealed and the following section is substituted:

Manner of determining volumes of, and fixing duty on, beer 35

“77B. (1) For the purposes of the Excise Acts in their application to beer that is entered for home consumption after 31 January 1989 in a bulk container, the container in which the beer is packaged shall be treated as containing:

- (a) if the volume of the contents of the container is nominated for the purpose of the entry, the beer is entered before 30 June 1991 and the actual volume of the contents of the container does not exceed 101.5% of the nominated volume—the nominated volume;
- 5 (b) if the volume of the contents of the container is nominated for the purpose of the entry, the beer is entered before 30 June 1991 and the actual volume of the contents of the container exceeds 101.5% of the nominated volume—a volume equal to the sum of:
- 10 (i) the nominated volume; and
- (ii) the volume by which the actual volume of the contents of the container exceeds 101.5% of the nominated volume;
- (c) if the volume of the contents of the container is nominated for the purpose of the entry, the beer is entered after 30 June 1991 and the actual volume of the contents of the container does not exceed 101% of the nominated volume—the nominated volume;
- 15 (d) if the volume of the contents of the container is nominated for the purpose of the entry, the beer is entered after 30 June 1991 and the actual volume of the contents of the container exceeds 101% of the nominated volume—a volume equal to the sum of:
- 20 (i) the nominated volume; and
- (ii) the volume by which the actual volume of the contents of the container exceeds 101% of the nominated volume; or
- (e) if the volume of the contents of the container is not nominated for the purpose of the entry—the actual volume of the contents of the container;
- 25

and duty on beer so entered shall be fixed accordingly.

“(2) For the purposes of the application of the Excise Acts in their application to beer that is entered for home consumption after 31 January 1989 in a container other than a bulk container, the container in which the beer is packaged shall be treated as containing:

30

- (a) if the volume of the contents of the container is indicated on a label printed on, or attached to, the container and the actual volume of the contents of the container does not exceed 101.5% of the volume so indicated—the volume so indicated;
- 35 (b) if the volume of the contents of the container is indicated on a label printed on, or attached to, the container and the actual volume of the contents of the container exceeds 101.5% of the volume so indicated—a volume equal to the sum of:
- 40 (i) the volume so indicated; and
- (ii) the volume by which the actual volume of the contents of the container exceeds 101.5% of the volume so indicated; or
- (c) if the volume of the contents of the container is not indicated on a label printed on, or attached to, the container—the actual volume of the contents of the container;

45 and duty on beer so entered shall be fixed accordingly.

“(3) In determining, for the purposes of this section, the volume of the contents of containers entered for home consumption, the Customs is not required to take a measurement of the contents of each container so entered but may employ such methods of sampling as are approved in writing by the Comptroller for the purpose.”.

5

Marking and labelling of containers and packages

34. Section 77C of the Principal Act is amended:

- (a) by omitting “vessel” and substituting “container”;
- (b) by omitting “vessels” and substituting “containers”.

Spoilt beer

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35. Section 77D of the Principal Act is amended by omitting “vessels” and substituting “containers”.

Disposal of beer by Collector on cancellation etc. of licence

36. Section 77F of the Principal Act is amended by omitting from subsections (1) and (3) “vessels” and substituting “containers”.

15

Rebate of duty in respect of diesel fuel used for certain purposes

37. (1) Section 78A of the Principal Act is amended:

- (a) by omitting from subsection (4) “because only that” and substituting “only because”;
- (b) by inserting after subsection (4) the following subsection:

20

“(4AA) Rebate is not payable to a person in respect of diesel fuel unless the application for the rebate:

- (a) is made in accordance with an approved form;
- (b) includes such information as is required by the form;
- (c) is signed and witnessed in the manner indicated in the form; and
- (d) is given to an officer.”;

25

- (c) by omitting paragraphs (4A) (a), (b) and (c).

Officers to have access to factories and approved places

38. Section 86 of the Principal Act is amended by omitting from subsection (1) “vessels utensils” and substituting “containers, utensils”.

30

Offences

39. Section 120 of the Principal Act is amended:

- (a) by omitting paragraphs (1) (vi), (vii) and (viii) and substituting the following paragraphs:

35

“(vi) Make a statement to an officer that is false or misleading in a material particular;

- (vii) Omit from such a statement made to an officer any matter or thing without which the statement is misleading in a material particular;”;

40

(b) by omitting from paragraph (2) (d) “, (vii) or (viii)” and substituting “or (vii)”;

(c) by adding at the end the following subsection:

5 “(3) In a prosecution of a person for an offence against paragraph (1) (vi) or (vii), it is a defence if the person proves that the person:

(a) did not know; and

(b) could not reasonably be expected to have known;

that:

10 (c) where the prosecution is for an offence against paragraph (1) (vi)—the statement was false or misleading; or

(d) where the prosecution is for an offence against paragraph (1) (vii)—the omission from the statement was misleading.”.

Institution of prosecutions

15 **40.** (1) Section 134 of the Principal Act is amended:

(a) by inserting in subsection (1) “by the Comptroller” after “instituted”;

(b) by omitting from paragraph (1) (d) “or” (last occurring);

(c) by adding at the end of subsection (1) the following word and paragraph:

20 “; or (f) in a court of summary jurisdiction of a State, of the Australian Capital Territory or of the Northern Territory”;

(d) by omitting subsection (3);

(e) by omitting from subsection (4) “subsection (3)” and substituting “paragraph (1) (f)”.

25 (2) Where, before the commencement of this section and section 41, a prosecution has been instituted under section 134A of the Principal Act by a person in the name of the Comptroller-General of Customs or of the Collector of Customs, that person may continue that prosecution, after the commencement, as if the amendments made by subsection (1) and the
30 repeal effected by section 41 had not been made or effected.

Repeal of section 134A

41. Section 134A of the Principal Act is repealed.

PART IV—AMENDMENT OF OFF-SHORE INSTALLATIONS (MISCELLANEOUS AMENDMENTS) ACT 1982

35 Principal Act

42. In this Part, “Principal Act” means the *Off-shore Installations (Miscellaneous Amendments) Act 1982*⁴.

Amendment of section 5

43. Section 5 of the Principal Act is amended by omitting “Part II” and substituting “Part I”.

NOTES

1. No. 6, 1901, as amended. For previous amendments, see No. 21, 1906; Nos. 9 and 36, 1910; No. 10, 1916; No. 41, 1920; No. 19, 1922; No. 12, 1923; No. 22, 1925; No. 6, 1930; Nos. 7 and 45, 1934; No. 7, 1935; No. 85, 1936; No. 54, 1947; No. 45, 1949; Nos. 56 and 80, 1950; No. 56, 1951; No. 108, 1952; No. 47, 1953; No. 66, 1954; No. 37, 1957; No. 54, 1959; Nos. 42 and 111, 1960; No. 48, 1963; Nos. 29, 82 and 133, 1965; No. 28, 1966; No. 54, 1967; Nos. 14 and 104, 1968; Nos. 12 and 134, 1971; No. 162, 1973; No. 216, 1973 (as amended by No. 20, 1974); Nos. 28 and 120, 1974; Nos. 56, 77 and 107, 1975; Nos. 41, 91 and 174, 1976; No. 154, 1977; Nos. 36 and 183, 1978; Nos. 92, 116, 177 and 180, 1979; Nos. 13, 15 and 110, 1980; Nos. 45, 64, 67, 152 and 157, 1981; Nos. 48, 51, 80, 108, 115 and 137, 1982; No. 81, 1982 (as amended by No. 39, 1983); Nos. 19, 39 and 101, 1983; Nos. 2, 22, 63, 72 and 165, 1984; Nos. 39, 40 and 175, 1985; Nos. 10, 34 and 149, 1986; Nos. 51, 76, 81, 104 and 141, 1987; and Nos. 63, 66 and 76, 1988.
2. No. 9, 1901, as amended. For previous amendments, see No. 26, 1918; No. 8, 1923; No. 44, 1934; No. 16, 1942; No. 88, 1947; No. 46, 1949; No. 55, 1952; No. 10, 1957; No. 49, 1958; No. 37, 1962; No. 49, 1963; No. 139, 1965; No. 93, 1966; Nos. 15 and 105, 1968; No. 23, 1972; Nos. 24 and 145, 1973; No. 216, 1973 (as amended by No. 20, 1974); No. 29, 1974; No. 91, 1976; No. 110, 1978; Nos. 11 and 50, 1979; No. 42, 1980; Nos. 61 and 65, 1981; Nos. 51, 80 and 108, 1982; No. 81, 1982 (as amended by No. 39, 1983); Nos. 39 and 101, 1983; Nos. 72 and 165, 1984; Nos. 39 and 175, 1985; No. 40, 1985 (as amended by No. 34, 1986); Nos. 10, 34 and 149, 1986; and Nos. 81 and 104, 1987.
3. No. 51, 1982, as amended. For previous amendments, see No. 165, 1984.



