

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

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*(As read a first time)*

**CUSTOMS AND EXCISE LEGISLATION AMENDMENT  
BILL 1992**

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1990-91-92

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

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Presented and read a first time, 26 February 1992

*(Minister for Small Business, Construction and Customs)*

**A BILL**

FOR

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

The Parliament of Australia enacts:

**PART 1—PRELIMINARY**

**Short title**

1. This Act may be cited as the *Customs and Excise Legislation  
5 Amendment Act 1992*.

**Commencement**

2.(1) Sections 1 to 3 inclusive, paragraphs 4(c) and (d), sections 18,  
33 and 41, paragraph 42(c) and sections 44, 45 and 49 commence on  
the day on which this Act receives the Royal Assent.

(2) Sections 8 to 12 inclusive, section 21, sections 27 to 30 inclusive, sections 34, 37 and 43, sections 46 to 48 inclusive and section 50 commence 28 days after the day on which this Act receives the Royal Assent.

(3) Subject to subsection (4), the other provisions of this Act commence on a day or days to be fixed by Proclamation. 5

(4) If a provision of this Act to which subsection (3) applies does not commence within the period of 6 months commencing on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period. 10

## PART 2—AMENDMENTS OF THE CUSTOMS ACT 1901

### Principal Act

3. In this Part, “Principal Act” means the *Customs Act 1901*<sup>1</sup>.

### Interpretation

4. Section 4 of the Principal Act is amended: 15

(a) by omitting from the definition of “Commercial document” in subsection (1) all words after “the carriage of the goods” and substituting the following words and paragraphs:

“but does not include a record of any transmission to or from Customs: 20

(a) under the COMPILE computer system in respect of an import entry concerning the goods or a withdrawal of such an entry; or

(b) under the EXIT computer system in respect of an export entry, submanifest, or outward manifest concerning the goods or a withdrawal of such an entry, submanifest or manifest;” 25

(b) by omitting from subsection (1) the definition of “Authority to deal” and substituting the following definition:

“‘Authority to deal’ means: 30

(a) in relation to goods the subject of an export entry—an export entry advice, in the form specified under subsection 114C(1), authorising the goods to be dealt with in accordance with the entry; and

(b) in relation to goods the subject of an import entry—an authorisation of the kind referred to in subsection 71B(4);” 35

(c) by omitting from subsection (1) the definition of “The Customs”;

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

“‘Customs’ means the Australian Customs Service;” 40

(e) by inserting in subsection (1) the following definitions:

“**COMPILE user agreement**’ means an agreement entered into between Customs and a registered COMPILE user under subsection 77A(8);

5 **COMPILE computer system**’ means the computer facilities specified in each COMPILE user agreement for all computer communications relating to the importation of goods;”;

**Import entry**’ means a computer import entry or a documentary import entry within the meaning of section 71A;

10 **Import entry advice**’ means a communication, in respect of an import entry, that is made under subsection 71B(1).

**Movement application**’ means an application made under section 71E for permission to move goods that are, or will be, subject to Customs control;

15 **PIN number**’, in relation to a registered COMPILE user, means a personal user identification number allocated to the user under subsection 77A(9);

**Registered COMPILE user**’ means a person registered as such a user under subsection 77A(5);

20 **Visual examination application**’ means an application made under section 71C for permission to examine goods;”.

#### Alteration to heading

5. The heading to Part III of the Principal Act is amended by omitting “ENTRIES”.

#### Customs control of goods

25 6. Section 30 of the Principal Act is amended:

(a) by omitting paragraph (a) and substituting the following paragraphs:

“(a) as to goods to which section 68 applies that are unshipped—from the time of their importation:

30 (i) until there has been compliance with a Collector’s permit for their unshipment; and

(ii) until either they are delivered into home consumption in accordance with an authority to deal under section 71B or with a permission under section 69, 70 or 162A or they are exported to a place outside Australia, whichever happens first;

35 (aa) as to goods to which section 68 applies that are not unshipped—from the time of their importation until they are exported to a place outside Australia;

40 (ab) as to goods referred to in paragraph 68(1)(e), (f) or (i)—from the time of their importation:

(i) if they are unshipped—until there has been

- compliance with a Collector's permit for their unshipment and until they are delivered into home consumption in accordance with an authority under subsection 71(2); or
- (ii) if they are not unshipped—until they are exported to a place outside Australia; 5
- (ac) as to goods referred to in paragraph 68(1)(g) or (h)—from the time of their importation:
  - (i) if they are unshipped—until there has been compliance with a Collector's permit for their unshipment; or 10
  - (ii) if they are not unshipped—until they are exported to a place outside Australia;
- (ad) as to goods referred to in paragraph 68(1)(d)—from the time of their importation until they are delivered into home consumption in accordance with an authority under subsection 71(2) or they are exported to a place outside Australia, whichever happens first;” 15
- (b) by omitting from paragraphs 30(b),(c) and (d) “As” (wherever occurring) and substituting “as”; 20
- (c) by omitting from paragraph 30(b) “whichever first occurs.” and substituting “whichever happens first;”;
- (d) by omitting from paragraph 30(c) “payment of the duty.” and substituting “payment of the duty;”.

**Repeal of certain sections** 25

7. Sections 36, 37, 38, 38A, 38B, 39, 40 and 40AA are repealed.

**Impending arrival report**

8. Section 64 of the Principal Act is amended:

- (a) by inserting before subsection (1) the following subsection:
  - “(1A) This section applies to a ship or aircraft on a voyage or flight to Australia from a place outside Australia.”; 30
- (b) by omitting from subsection (1) the part of the subsection preceding paragraph (a) and substituting the following:
  - “The master or owner of a ship to which this section applies that is due to arrive at a port in Australia (whether the first port or any subsequent port on the same voyage) must, in accordance with subsection (3), report its impending arrival to Customs;”;
- (c) by omitting from subsection (1) “the place outside Australia” (wherever occurring) and substituting “the last port”; 35
- (d) by omitting subsection (2) and substituting the following subsection: 40

5 “(2) The pilot or owner of an aircraft to which this section applies that is due to arrive at an airport in Australia (whether the first airport or any subsequent airport on the same flight) must, in accordance with subsection (3), report its impending arrival to Customs:

(a) if the journey from the last airport is likely to take not less than 3 hours—not later than 3 hours before its arrival; and

10 (b) if the journey from the last airport is likely to take less than 3 hours—not later than one hour before its arrival.

Penalty: \$500.”.

### Arrival report

9. Section 64AA of the Principal Act is amended:

(a) by inserting before subsection (1) the following subsection:

15 “(1AA) This section applies to a ship or aircraft on a voyage or flight to Australia from a place outside Australia.”;

(b) by omitting from subsection (1) the part of the subsection preceding paragraph (a) and substituting the following:

20 “The master or owner of a ship to which this section applies that has arrived at a port in Australia (whether the first port or any subsequent port on the same voyage) must, in accordance with subsection (2), report the ship’s arrival to Customs together with particulars of the ship’s stores, within the meaning of section 130C, on board at the time of arrival.”;

25 (c) by inserting in paragraph (1)(b) “and the port” after “ship”;

(d) by omitting from subsection (1) “, report the ship’s arrival to Customs”;

(e) by inserting after subsection (1) the following subsections:

30 “(1A) In calculating the period of 24 hours after the ship’s arrival for the purposes of paragraph (1)(a), any time that falls on a Sunday or a holiday is to be disregarded.

35 “(1B) The pilot or owner of an aircraft to which this section applies that has arrived at an airport in Australia (whether the first airport or any subsequent airport on the same flight) must, in accordance with subsection (2), report the aircraft’s arrival to Customs together with particulars of the aircraft’s stores, within the meaning of section 130C, on board at the time of arrival:

40 (a) before the end of a period of 3 hours after the aircraft’s arrival; or

(b) before the issue of a Certificate of Clearance in respect of the aircraft and the airport;

whichever happens first.

Penalty: \$500.”;

- (f) by inserting in subsection (2) “or (1B)” after “subsection (1)”; and
- (g) by omitting from paragraph (2)(c) “ships at the port” and substituting “ships or aircraft at the port or airport”.

**Cargo report**

10. Section 64AB of the Principal Act is amended by omitting from subsection (2) all the words after “computer”, and substituting the following: 5

“a report of the cargo that is intended to be unshipped at the port:

- (a) if the journey from the last port is likely to take not less than 48 hours—not later than 48 hours before the ship’s arrival at the port; and 10
- (b) if the journey from the last port is likely to take less than 48 hours—not later than 24 hours before its arrival.”

**Passenger and crew report**

11. Section 64AC of the Principal Act is amended: 15

- (a) by omitting from subsection (1) “ship on a voyage” and substituting “ship or aircraft on a voyage or flight”; and
- (b) by omitting subsection (2) and substituting the following subsections:

“(2) The master or owner of a ship to which this section applies that is due to arrive at a port in Australia (whether the first port or any subsequent port on the same voyage) must communicate to Customs, by document or computer, a report of all the crew and passengers who will be on board the ship at the time of its arrival at the port: 20

- (a) if the journey from the last port is likely to take not less than 48 hours—not later than 48 hours before the ship’s arrival at the port; and 25
- (b) if the journey from the last port is likely to take less than 48 hours—not later than 24 hours before its arrival. 30

Penalty: \$500.

“(2A) The pilot or owner of an aircraft to which this section applies that is due to arrive at an airport in Australia (whether the first airport or any subsequent airport on the same flight) must communicate to Customs: 35

- (a) by document—not later than 3 hours after the arrival of the aircraft at the airport; or
- (b) by computer—not later than the time of arrival of the aircraft at the airport;

a report of the full name and date of birth of each crew member and the number of passengers who were or will be on board the aircraft at the time of its arrival at the airport. 40

Penalty: \$500.”



**Insertion of new section**

12. After section 64AD of the Principal Act, the following section is inserted:

**Obligation to answer questions and produce documents**

5 “64AE.(1) The master and owner of a ship to which section 64, 64AA, 64AB or 64AC applies must each:

- (a) answer questions asked by a Collector relating to the ship or the ship’s cargo, crew, passengers, stores or voyage; and
- 10 (b) at the request of a Collector, produce documents relating to the ship or the ship’s cargo, crew, passengers, stores or voyage that are in his or her possession or control at the time of the request.

Penalty: \$500.

“(2) The pilot and owner of an aircraft to which section 64, 64AA, 64AB or 64AC applies must each:

- 15 (a) answer questions asked by a Collector relating to the aircraft or the aircraft’s cargo, crew, passengers, stores or flight; and
- (b) at the request of a Collector, produce documents relating to the aircraft or the aircraft’s cargo, crew, passengers, stores or flight that are in his or her possession or control at the time of the request.

20 Penalty: \$500.

“(3) It is a defence to a prosecution for an offence against subsection (1) or (2) if the person charged had a reasonable excuse for:

- 25 (a) refusing or failing to answer questions asked by a Collector; or
- (b) refusing or failing to produce documents when so requested by a Collector.”.

**Repeal of certain sections and substitution of new sections**

13. Sections 68, 69, 71, 71A and 71B of the Principal Act are repealed and the following sections are substituted:

30 **Entry of imported goods**

“68.(1) This section applies to:

- (a) goods that are imported into Australia; and
- (b) goods that are intended to be imported into Australia and that are on board a ship or aircraft that has commenced its journey to Australia; and
- 35 (c) a ship or aircraft that is intended to be imported into Australia and that has commenced its journey to Australia;

but does not apply to:

- (d) goods that are accompanied or unaccompanied personal or

household effects of a passenger, or a member of a crew, of a ship or aircraft; and

- (e) goods, other than prescribed goods:
  - (i) that are included in a consignment consigned through the Post Office by one person to another; and 5
  - (ii) that have a value not exceeding \$1,000 or such other amount as is prescribed; and
- (f) goods, other than prescribed goods:
  - (i) that are included in a consignment consigned otherwise than by post by one person to another; and 10
  - (ii) that are all transported to Australia in the same ship or aircraft; and
  - (iii) that have a value not exceeding \$250 or such other amount as is prescribed; and
- (g) containers: 15
  - (i) that are the property of a person carrying on business in Australia; and
  - (ii) that are imported on a temporary basis to be re-exported, whether empty or loaded; and
- (h) containers: 20
  - (i) that were manufactured in Australia; and
  - (ii) that are, when imported into Australia, the property of a person carrying on business in Australia; and
  - (iii) that were the property of that person when, and have remained the property of that person since, they were exported or were last exported from Australia; and 25
- (i) goods that, under the regulations, are exempted from this section, either absolutely or on such terms and conditions as are specified in the regulations.

“(2) The owner of goods to which this section applies may, at any time before the ship or aircraft carrying the goods first arrives at a port or airport in Australia at which any goods are to be discharged, enter the goods: 30

- (a) for home consumption; or
- (b) for warehousing; or 35
- (c) for transshipment.

“(3) If the owner of goods to which this section applies does not enter the goods under subsection (2) for a purpose set out in that subsection, the owner must enter the goods for one or other such purpose after the ship or aircraft carrying the goods first arrives at a port or airport in Australia at which any goods are to be discharged. 40

- “(4) For the purposes of paragraph (1)(d), goods:
  - (a) in quantities exceeding what could reasonably be expected to

be required by a passenger or member of the crew of a ship or aircraft for his or her own use; or

- (b) that are, to the knowledge or belief of a passenger or member of the crew of a ship or aircraft, to be sold, or used in the course of trading, in Australia;

are not included in the personal or household effects of a passenger or crew member.

“(5) For the purposes of paragraphs (1)(e) or (f), the value of goods must be ascertained or determined under Division 2 of Part VIII.

10 **Like customable goods**

“69.(1) In this section, ‘like customable goods’, means goods to which section 68 applies that are classified under a subheading specified in column 1 of the Table to section 26 of the *Customs Tariff Act 1987*.

- 15 “(2) A person who has imported or who proposes to import particular like customable goods, or like customable goods of a particular kind, may apply to Customs, in writing, for permission to deliver those goods, or goods of that kind into home consumption without entering them for that purpose.

20 “(3) An officer of Customs may, on receipt of an application under subsection (2), by notice in writing:

- (a) grant permission for the particular like customable goods, or like customable goods of the particular kind, to which the application relates to be delivered into home consumption without entering them for that purpose; or
- 25 (b) refuse to grant such a permission and set out in the notice the reasons for so refusing.

““(4) A permission granted in respect of particular goods, or goods of a particular kind, is subject:

- 30 (a) to the condition that, on or after their importation and before they are delivered into home consumption, goods to which the permission relates must have been, or must be, entered for warehousing; and
- (b) to any other condition, specified in the permission, that Customs considers appropriate.

35 ““(5) Where:

- (a) permission is granted in respect of particular goods or goods of a particular kind; and
- (b) those goods or goods of that kind are delivered into home consumption under that permission;

40 the person to whom the permission is granted must:

- (c) give Customs returns at such intervals, not exceeding 2 months, as are specified in the permission, providing particulars in

accordance with section 71K in relation to those goods or to goods of that kind that have, during the periods to which the returns relate, been delivered into home consumption; and

(d) at the time when each return is given to Customs, pay any duty owing at the rate applicable when the goods were delivered into home consumption; and 5

(e) comply with any conditions to which the permission is subject.

Penalty: \$5,000.

“(6) Where an officer of Customs is satisfied that a person to whom a permission has been granted under this section has failed to comply with any condition to which the permission is subject, the officer may: 10

(a) if the permission related to particular goods—at any time before those goods are delivered into home consumption; and

(b) if the permission related to goods of a particular kind—at any time while the permission remains in force; 15

by notice in writing, revoke the permission and set out in the notice the reasons for that revocation.

### **Special clearance goods**

“70.(1) In this section, ‘**special clearance goods**’ means goods to which section 68 applies comprising: 20

(a) goods reasonably required for disaster relief or for urgent medical purposes; or

(b) engines or spare parts that are unavailable in Australia and are urgently required for ships or aircraft, or for other machinery that serves a public purpose; or 25

(c) perishable food.

“(2) A person who has imported or proposes to import goods referred to in paragraph (a) of the definition of ‘special clearance goods’ may apply to Customs at any time, in writing, for permission to deliver the goods into home consumption without entering them for that purpose. 30

“(3) A person who has imported goods referred to in paragraph (b) or (c) of the definition of ‘special clearance goods’ may apply to Customs, in writing, for permission to deliver the goods into home consumption without entering them for that purpose: 35

(a) if the goods become subject to Customs control outside the hours of business for dealing with import entries; and

(b) the application is made before those hours of business resume.

“(4) Subject to subsection (5), an officer of Customs may, on receipt of an application under subsection (2) or (3), by notice in writing: 40

(a) grant permission for the goods to which the application relates to be delivered into home consumption without entering them for that purpose; or

(b) refuse to grant such a permission and set out in the notice the reasons for so refusing.

5 “(5) A permission granted in respect of goods is subject to any condition, specified in the permission, that Customs considers appropriate.

10 “(6) Where an application is made in respect of perishable food, an officer of Customs must not grant the permission unless he or she is satisfied that, if he or she refused to do so, the food would be of little or no commercial value when the hours of business for dealing with import entries resumed.

“(7) Where permission is granted in respect of goods, the person to whom the permission is granted must:

15 (a) give Customs a return, within 7 days of the delivery of the goods into home consumption, providing particulars in accordance with section 71K in relation to the goods; and

(b) at the time when the return is given to Customs, pay any duty owing at the rate applicable when the goods were delivered into home consumption; and

20 (c) comply with any condition to which the permission is subject.  
Penalty: \$5,000.

25 “(8) Where an officer of Customs is satisfied that a person to whom a permission has been granted under this section has failed to comply with any of the conditions to which the permission is subject, the officer may, at any time before goods are delivered into home consumption, by notice in writing, revoke the permission and set out in the notice the reasons for that revocation.

“(9) In this section, a reference to the hours of business for dealing with import entries is a reference:

30 (a) if an applicant is a registered COMPILE user—to a time when, under regulations made for the purposes of section 28, the applicant would not be able to give a documentary import entry, or transmit a computer import entry, to Customs; and

35 (b) if an applicant is not a registered COMPILE user—to a time when, under those regulations, the applicant would not be able to give a documentary import entry to Customs.

**Information in relation to goods not requiring import entry**

“71.(1) The owner of the goods of a kind referred to in paragraphs 68(1)(d), (e), (f) or (i) must, in any circumstances specified in the regulations, provide such information:

40 (a) at such time; and  
(b) in such manner and form;  
as the regulations specify.

“(2) Where goods of a kind referred to in subsection (1) are imported into Australia, Customs must, having regard to any information given to Customs in accordance with the regulations, by notice in writing:

- (a) authorise the delivery of those goods into home consumption;  
or
- (b) refuse to authorise the delivery of those goods into home consumption and give reasons for its refusal.

5

**Making an import entry**

“71A.(1) An import entry is a communication to Customs of information concerning goods to which section 68 applies that are intended to be entered for home consumption, for warehousing, or for transshipment, that is effected:

10

- (a) by document; or
- (b) except so far as goods intended to be entered for transshipment are concerned—by computer.

15

“(2) A documentary import entry must:

- (a) be made by the owner of the goods concerned; and
- (b) be communicated to Customs:
  - (i) by giving it to an officer doing duty in relation to entries under this Part; or
  - (ii) by leaving it at a place that has been allocated for lodgment of import entries in a Customs Office;  
at the place at which the goods are to be delivered for home consumption, warehousing, or transshipment.

20

“(3) A computer import entry must be transmitted by a registered COMPILE user as the owner, or on behalf of the owner, of the goods concerned.

25

“(4) Despite the fact that any law of the Commonwealth, including this Act, provides that the importation of particular goods into Australia is prohibited unless a permission (however it is described) to import those goods is produced to an officer of Customs, that obligation will, in such cases as are prescribed, be taken to have been complied with if the permission obtained in respect of those goods is adequately identified in the information communicated to Customs in an import entry relating to those goods.

30

35

“(5) Nothing in subsection (4) affects any power of an officer of Customs, under this Act, to require the production of such permission.

“(6) When an import entry is, or is taken under section 71L to have been, communicated to Customs, and the goods to which the entry relates have been imported or have been brought to the first port or airport in Australia at which any goods are to be discharged, the goods are taken to have been entered.

40

5 “(7) When an import entry is, or is taken under section 71L to have been, communicated to Customs before the goods to which the entry relates have been brought to the first port or airport in Australia at which any goods are to be discharged, the goods are taken to have been entered only when they are brought to that port or airport.

**Authority to deal with goods entered under section 71A**

“71B.(1) Where an entry in respect of goods has been given or transmitted to Customs, Customs must give an import entry advice, by document or computer, in accordance with this section.

10 “(2) An import entry advice relating to goods entered by documentary import entry:

(a) must be given to the owner of the goods or be made available for collection by leaving it at a place in a Customs office that has been allocated for collection of such advices; and

15 (b) must contain:

(i) a statement to the effect that, subject to payment of any designated amount, the goods will be cleared for home consumption, warehousing, or transhipment; or

20 (ii) a statement that the goods are directed for further examination.

“(3) An import entry advice relating to goods entered by a computer import entry:

(a) must refer to the entry number given by the COMPILE computer system to the particular import entry; and

25 (b) must be transmitted to the registered COMPILE user whose PIN number was transmitted in relation to the entry; and

(c) must include:

30 (i) a statement to the effect that, subject to payment of any designated amount, the goods will be cleared for home consumption or warehousing; or

(ii) a statement that the goods are directed for further examination.

“(4) Where:

35 (a) an import entry advice is given or transmitted under this section; and

(b) a payment of any amount specified in the advice is made;

Customs must:

40 (c) if the advice was given under subsection (2)—give the person to whom the advice was given an authority, in writing, to take the goods into home consumption, to warehouse them or to tranship them, as the case requires; and

(d) if the advice was given under subsection (3)—give the person to whom the advice was transmitted, by message transmitted

to the person, an authority to take the goods into home consumption or to warehouse them, as the case requires.

“(5) Where goods are authorised to be taken into home consumption, to be warehoused or to be transhipped, the authority to deal, whether given by document or computer, must set out: 5

- (a) any condition, of the kind referred to in subsection (6), to which the authority is subject; and
- (b) the date on which the authority is given; and
- (c) such other information as is prescribed.

“(6) An authority to deal with goods may be expressed to be subject to a condition that a specified permission for the goods to be dealt with (however it is described) be obtained under another law of the Commonwealth. 10

“(7) Where an authority to deal with goods is expressed to be subject to the condition that a specified permission be obtained, the authority is taken not to have been given until the permission has been obtained. 15

“(8) An officer doing duty in relation to import entries may, at any time before goods authorised to be taken into home consumption, to be warehoused or to be transhipped are so dealt with, cancel that authority: 20

- (a) if the authority was given in respect of a documentary entry— by signing a notice stating that the authority is cancelled and setting out the reasons for that cancellation and serving a copy of that notice on the person who made the entry or, if that person does not have possession of the goods, on the person who has possession of the goods; and 25

(b) if the authority was given in respect of a computer entry:

- (i) by transmitting to the registered COMPILE user to whom the authority was given a cancellation notice setting out the same particulars as are required to be included in a notice referred to in paragraph (a); or 30
- (ii) by signing and serving a notice of the kind referred to in paragraph (a);

and the cancellation has effect from the moment the notice is served or transmitted, as the case requires. 35

### **Visual examination in presence of officer of Customs**

“71C.(1) If a person permitted or required to make an import entry in respect of goods to which section 68 applies does not have the information to complete the entry, the person may make application to Customs, by document, for permission to examine the goods in the presence of an officer of Customs. 40



“(2) An application must be communicated to Customs by giving it to an officer of Customs doing duty in relation to import entries.

5 “(3) When an application is given to Customs under subsection (2), an officer of Customs must, by notice in writing, give the applicant permission to examine the goods to which the application relates on a day and at a place nominated in the notice.

“(4) A person who has received a visual examination permission may examine the goods in accordance with the permission in the presence of an officer of Customs.

10 **An officer of Customs may request additional information**

“71D.(1) Without limiting the generality of the information that may be required to be included in an import entry, where goods have been entered, authority to deal with the goods in accordance with the entry may be refused until an officer doing duty in relation to import entries:

- (a) has verified particulars of the goods shown in the entry; or
- (b) is satisfied of any other matter that may be relevant to the granting of an authority to deal.

20 “(2) An officer doing duty in relation to import entries may, by document or by computer, require the owner of goods entered under section 71A:

- 25 (a) to deliver to the officer the commercial documents in respect of the goods that are in the owner’s possession or under the owner’s control (including any such documents that had previously been delivered to an officer and had been returned to the owner); or
- (b) to deliver to the officer such information, in writing, relating to the goods, being information of a kind specified in the notice; as is within the knowledge of the owner or as the owner is reasonably able to obtain.

30 “(3) A documentary requirement for the delivery of documents or information in respect of an import entry must:

- (a) be communicated to the person by whom, or on whose behalf, the entry was communicated; and
- 35 (b) be in an approved form and contain such particulars as the form requires.

“(4) A computer requirement for the delivery of documents or information in respect of an import entry must:

- 40 (a) be transmitted to the registered COMPILE user by whom, or on whose behalf, the entry was communicated; and
- (b) be transmitted using the COMPILE computer system; and
- (c) communicate such particulars as are set out in an approved statement.

“(5) An officer doing duty in relation to import entries may ask the owner of goods entered under section 71A and, if another person communicated the entry on behalf of the owner, that other person, any questions relating to the goods.

“(6) An officer doing duty in relation to import entries may require the owner of any goods entered under section 71A to verify the particulars shown in the entry by declaration or the production of documents. 5

“(7) Where:

- (a) the owner of goods has been required to deliver documents or information in relation to the goods under subsection (2); or 10
- (b) the owner of, or the person giving an entry in respect of, goods has been asked a question in respect of the goods under subsection (5); or
- (c) the owner of goods has been required to verify a matter in respect of the goods under subsection (6); 15

authority to deal with the relevant goods in accordance with the entry must not be granted unless the requirement has been complied with or revoked, the question has been answered to the satisfaction of an officer doing duty in relation to import entries or withdrawn, or the requirement has been complied with or withdrawn, as the case may be. 20

“(8) Subject to section 215, where a person delivers a commercial document to an officer doing duty in relation to import entries under this section, the officer must deal with the document and then return the document to that person. 25

### **Application for movement permission**

“71E.(1) Where particular goods, or goods of a particular kind, are, or after their importation will be, subject to Customs control, application may be made to Customs, in writing, in accordance with this section, for permission to move those goods, or goods of that kind, or to move them after their importation, to a place specified in the application. 30

“(2) A movement application must:

- (a) be made by the owner of the goods concerned; and
- (b) be communicated to Customs by giving it to an officer doing duty in relation to import entries or to the movement of goods subject to Customs control. 35

“(3) When an application is communicated to Customs under subsection (2), an officer of Customs must, by notice in writing:

- (a) give the applicant permission to move the goods to which the application relates in accordance with the application either absolutely or subject to such conditions as are specified in the notice; or 40

(b) refuse the application and set out in the notice the reasons for that refusal.

5 “(4) Where goods are moved to a place other than a warehouse in accordance with a permission under subsection (3), an officer of Customs may, at any time while the goods remain under Customs control, direct in writing that they be moved from that place to a warehouse specified in the direction within a period specified in the direction.

10 “(5) If goods are not moved in accordance with such a direction, an officer of Customs may arrange for the goods to be moved to the warehouse specified in the direction or to any other warehouse.

15 “(6) Where an officer of Customs has arranged for goods to be moved to a warehouse, Customs has a lien on the goods for any expenses incurred in connection with their removal to the warehouse and for any warehouse rent and charges incurred in relation to the goods.

#### **Withdrawal of import entries**

20 “71F.(1) At any time after an import entry is communicated to Customs and before the goods to which it relates are dealt with in accordance with the entry, a withdrawal of the entry may be communicated to Customs by document or computer.

“(2) A documentary withdrawal of an import entry must:

- 25 (a) be communicated by the person by whom, or on whose behalf, the entry was communicated; and  
(b) be communicated to Customs by giving it to an officer doing duty in relation to import entries.

“(3) A computer withdrawal of an import entry in respect of particular goods must be transmitted by a registered COMPILE user as, or on behalf of, the owner of the goods.

30 “(4) A withdrawal of an import entry has no effect during any period while a requirement under subsection 71D(2) in respect of the goods to which the entry relates has not been complied with.

“(5) A withdrawal of an entry is effected when it is, or is taken under section 71L to have been, communicated to Customs.

#### **Goods not to be entered while an entry is outstanding**

35 “71G. Where goods have been entered for home consumption under subsection 68(2) or (3), a person must not communicate a further import entry to Customs in respect of those goods or of any part of those goods unless the first-mentioned entry is withdrawn.

Penalty: \$1,500.

**Effect of withdrawal**

“71H.(1) When a withdrawal of an import entry takes effect, any authority to deal with the goods to which the entry relates is revoked.

“(2) Despite the withdrawal of an import entry:

(a) a person may be prosecuted, or action taken under section 243T, in respect of the entry; and 5

(b) a penalty may be imposed on a person who is convicted of an offence in respect of the entry;

as if it had not been withdrawn.

“(3) The withdrawal of a documentary entry does not entitle the person who communicated it to have it returned. 10

**Change of import entry treated as withdrawal**

“71J. Where a person who has communicated an import entry changes information included in that entry, the person is taken, at the time when an import entry advice is given or transmitted in respect of the altered entry, to have withdrawn the entry as it previously stood. 15

**Manner of communicating with Customs by document**

“71K. An import entry, a withdrawal of an import entry, a visual examination application, a movement application, or a return for the purposes of subsection 69(5) or 70(7), that is communicated to Customs by document: 20

(a) must be in an approved form; and

(b) must include such information as the approved form requires; and

(c) must be signed in the manner indicated in the approved form. 25

**Manner and effect of communicating with Customs by computer**

“71L.(1) An import entry or a withdrawal of such an entry that is transmitted to Customs by computer:

(a) must be transmitted using the COMPILE computer system during a time when, under regulations made for the purpose of section 28, a person can transmit a computer import entry to Customs; and 30

(b) must be signed by transmitting, in relation to the entry or the withdrawal, the registered COMPILE user’s PIN number; and

(c) must communicate such information as is set out in an approved statement relating to that communication. 35

“(2) For the purposes of this Act, an import entry or a withdrawal of such an entry is taken to have been communicated to Customs by computer when an import entry advice or an acknowledgment of a withdrawal is transmitted by Customs using the COMPILE computer system to the registered COMPILE user whose PIN number was transmitted in relation to the entry or withdrawal.”. 40

**Failure to make entries**

14. Section 72 of the Principal Act is amended by omitting from paragraph (4)(b) “section 39” and substituting “section 71B”.

**Breaking Bulk**

5 15. Section 73 of the Principal Act is amended by omitting from subsection (3) “section 39” and substituting “section 71B”.

**Insertion of new Division**

16.(1) After section 77 of the Principal Act the following Division is inserted:

10 **“Division 4A—The use of computers for import entry purposes**

**Registered COMPILE users**

“77A.(1) To communicate with Customs by computer for a purpose identified in Division 4, a person must be a registered COMPILE user.

15 “(2) A person wishing to become a registered COMPILE user may apply to the Comptroller to be so registered.

“(3) An application must:

- (a) be in writing; and
- (b) be in an approved form; and
- (c) contain such information as the form requires; and
- 20 (d) be signed in the manner indicated in the form.

“(4) The Comptroller may require an applicant for registration to give such additional information as the Comptroller considers necessary for the purposes of this Act and may refuse to register the person until the information is given to the satisfaction of the Comptroller.

25 “(5) Where an application is made to the Comptroller under this section, the Comptroller must, having regard to that application and, where additional information is supplied in response to a request under subsection (4), to that additional information:

- 30 (a) register the applicant as a registered COMPILE user by signing a notice stating that the applicant is a registered COMPILE user; or
- (b) refuse to register the applicant as a registered COMPILE user by signing a notice stating that the Comptroller has refused to register the applicant and setting out the reasons for the refusal.

35 “(6) Without limiting the generality of subsection (5), the Comptroller may refuse to register an applicant as a registered COMPILE user if the Comptroller is satisfied that the applicant does not have and is not likely to acquire within a reasonable time after making the application, computer facilities of the kind referred to in  
40 paragraph (8)(a).

“(7) Where the Comptroller registers a person as a registered COMPILE user, the registration has effect from the day on which the relevant notice was signed.

“(8) Each registered COMPILE user must, as soon as practicable after registration, enter into an agreement with Customs, setting out the terms and conditions of computer access to Customs for the purpose of communications relating to the importation of goods including: 5

- (a) a condition that the user will use computer facilities of a kind specified in the agreement for all computer communications with Customs relating to import entries; and 10
- (b) a condition that the user, when assigned a personal identification number by the Comptroller, will ensure the security of the number in a manner indicated in the agreement.

“(9) Where a registered COMPILE user enters into a COMPILE user agreement, the Comptroller must forthwith allocate to the user: 15

- (a) if the user is a natural person—a PIN number or sufficient PIN numbers for the user and each employee of the user who is nominated to Customs in accordance with the agreement; or
- (b) if the user is not a natural person—sufficient PIN numbers for each employee of the user who is nominated to Customs in accordance with the agreement. 20

“(10) Where, at any time, the Comptroller becomes satisfied that a person who is a registered COMPILE user has failed to comply:

- (a) with an obligation imposed on the user under this Act; or
- (b) with a term of the applicable COMPILE user agreement; 25

the Comptroller may cancel the registration of the registered COMPILE user by signing a notice stating that the registration has been cancelled and setting out the reasons for that cancellation.

“(11) The cancellation of the registration of a person as a registered COMPILE user has effect from the day the relevant notice was signed. 30

“(12) The Comptroller must, as soon as practicable after signing a notice under subsection (5) or (10), serve a copy of the notice on the person concerned but a failure to do so does not alter the effect of the notice.

**Unauthorised use of registered COMPILE user’s PIN number 35**

“77B. Where a computer import entry or a withdrawal of such an entry is communicated to Customs using a registered COMPILE user’s PIN number:

- (a) without the authority of the user to whom the number was assigned; and 40
- (b) before notification to Customs by the user of a possible breach of security;

that entry or withdrawal will be taken, subject to any evidence of the user to the contrary, to have been communicated by the user.”.

**What happens if the COMPILE computer system is down?**

5 “77C.(1) Where, because the COMPILE computer system is inoperative:

(a) a registered COMPILE user cannot transmit an import entry to Customs; or

(b) Customs cannot transmit an import entry advice to the user; the user may prepare a contingency entry in respect of those goods.

10 “(2) A contingency entry must:

(a) be in an approved form; and

(b) contain at least so much of the information that would be required if the COMPILE computer system were operative as the approved form requires; and

15 (c) be signed in the manner indicated in the approved form.

“(3) Where a contingency entry has been prepared and given to Customs, this Act applies to it in the same manner as it applies to any other documentary entry.

20 “(4) Without limiting by implication the operation of section 71D under subsection (3) in respect of a contingency entry, an officer of Customs may require a registered COMPILE user who submits such an entry to give to the officer any other information that would have been required to be included in a computer import entry relating to those goods had such an entry been able to be dealt with in the  
25 COMPILE computer system and, where the officer does so, an authority to deal with the goods in accordance with the contingency entry must not be granted unless the requirement has been complied with.

“(5) If:

30 (a) a contingency entry has been delivered to Customs in respect of particular goods; and

(b) before Customs has given an import entry advice in respect of that entry, the COMPILE computer system becomes operative again;

35 the registered COMPILE user who provided the contingency entry to Customs may transmit a computer entry to Customs in respect of those goods in the normal manner but, if the user does so, the user must first withdraw the contingency entry.”.

40 (2) Where a person has, before the day on which Division 4A of Part IV of the Principal Act, as amended by this Act commences, entered into an agreement for the use of the COMPILE computer system and has been allocated a PIN number or PIN numbers, that person is to be taken on and after that day but subject to subsection (3):

- (a) to have been registered as a registered COMPILE user under subsection 77A(5) of the Principal Act as amended by this Act; and
- (b) to have entered into an appropriate COMPILE user agreement in accordance with the requirements of subsection 77A(8) of that Act as so amended; and 5
- (c) to have been allocated that PIN number or those PIN numbers in accordance with subsection 77A(9) of the Principal Act as so amended.

(3) Despite subsection (2), each person to whom that subsection refers must, within 2 months after the day of commencement referred to in that subsection, enter into a new COMPILE user agreement to replace the agreement previously entered into. 10

(4) If a person to whom subsection (2) refers fails to enter into a new agreement, within the period referred to in subsection (3), the person's registration as a registered COMPILE user is, at the end of the period of 2 months, taken to have been cancelled. 15

**Entry of warehoused goods**

17. Section 99 of the Principal Act is amended:

- (a) by omitting from subsection (2) "sections 71A and 71B" and substituting "sections 69 and 70"; 20
- (b) by omitting from subsection (2) "section 39" and substituting "section 71B".

**Prohibited exports**

18. Section 112 of the Principal Act is amended: 25

- (a) by inserting in subsection (2A), before paragraph (a), the following paragraph:
  - “(aa) may identify the goods to which the regulations relate by reference to their inclusion:
    - (i) in a list or other document formulated by a Minister and published in the *Gazette* or otherwise; or 30
    - (ii) in that list or other document as amended by the Minister and in force from time to time; and”; 35
- (b) by inserting after subsection (2A) the following subsection:
  - “(2AA) Where a Minister makes an amendment to a list or other document:
    - (a) that is formulated and published by the Minister; and
    - (b) to which reference is made in regulations made for the purposes of paragraph (2)(c); 40



the amendment is a disallowable instrument within the meaning of section 46A of the *Acts Interpretation Act 1901*.”.

**What is an export entry?**

5 19. Section 114 of the Principal Act is amended by omitting paragraphs (3)(c) and (d) and substituting the following paragraphs:

“(c) be signed by transmitting, in relation to the entry, the registered EXIT user’s identifying code; and

(d) communicate such information as is set out in an approved statement.”.

10 **Authority to deal with goods under section 114**

20.(1) Section 114C of the Principal Act is amended:

(a) by omitting subsections (3), (4) and (5) and substituting the following subsections:

15 “(3) An authority under this section to deal with goods may be expressed to be subject to a condition that a specified permission for the goods to be dealt with (however it is described) be obtained under another law of the Commonwealth.

20 “(4) Where an authority under this section to deal with goods is expressed to be subject to a condition that a specified permission be obtained, the authority is taken not to have been given until the permission has been obtained.”;

25 (b) by omitting from paragraph (6)(a) “to the person who made the entry” and substituting “on the person who made the entry, or, if that person does not have possession of the goods, on the person who has possession of the goods”;

(c) by omitting from subsection (6) “is signed” and substituting “is served”.

30 (2) An authority granted under section 114C of the Principal Act as in force immediately before the commencement of this section continues in force on and after the commencement of this section as if it had been granted under section 114C of the Principal Act as amended by this Act.

**Goods not to be taken on board without authority to deal**

35 21. Section 115 of the Principal Act is amended by adding at the end the following:

“Penalty: \$10,000.”.

**Submanifests may be prepared before goods are exported**

22. Section 117A of the Principal Act is amended by omitting paragraphs (3)(c) and (d) and substituting the following paragraphs:

- “(c) be signed by transmitting, in relation to the submanifest, the registered user’s identifying code; and 5
- (d) communicate such information as is set out in an approved statement.”.

**Requisites for obtaining Certificate of Clearance**

23. Section 119 of the Principal Act is amended:

- (a) by omitting paragraph (1)(a) and substituting the following paragraph: 10

- “(a) the master or owner of the ship or the pilot or owner of the aircraft must communicate to Customs, by document or by computer, an outward manifest: 15
  - (i) specifying all of the goods, other than goods prescribed for the purposes of section 120, on board the ship or aircraft; or
  - (ii) if there are no goods of the kind to which subparagraph (i) applies on board the ship or aircraft—making a statement to that effect; and”; 20

- (b) by omitting paragraphs (2A)(c) and (d) and substituting the following paragraphs:

- “(c) be signed by transmitting, in relation to the outward manifest, the registered user’s identifying code; and
- (d) communicate such information as is set out in an approved statement.”. 25

**Withdrawal of entries, submanifests and manifests**

24. Section 119 of the Principal Act is amended:

- (a) by omitting paragraph (2)(b) and substituting the following paragraph: 30

- “(b) by communicating to Customs:
  - (i) if it is a withdrawal of an entry—by giving it to an officer doing duty in relation to export entries; and
  - (ii) if it is a withdrawal of a submanifest or manifest— 35
    - by giving it to an officer doing duty in relation to the clearance of ships or aircraft; and”;

- (b) by omitting paragraphs (3)(c) and (d) and substituting the following paragraphs:

- “(c) be signed by transmitting, in relation to the withdrawal, the registered user’s identifying code; and 40
- (d) communicate such information as is set out in an approved statement.”.

**Notification of export entries, submanifests, manifests and withdrawals**

25. Section 119D of the Principal Act is amended:

- (a) by omitting subsection (2);
- (b) by omitting from subsection (3) “appears on” and substituting “was transmitted in relation to”.

**Amendment of heading**

26. The heading to Division 3 of Part VI is amended by omitting “*entry*” and substituting “*export entry*”.

**Payment of duty on ship’s or aircraft’s stores**

27. Section 130B of the Principal Act is amended by omitting subsection (2) and substituting the following subsections:

“(2) The master or owner of a ship, if so directed by an officer, must give to a Collector a return, in accordance with the approved form, relating to the ship’s stores of the ship and to goods taken on board the ship as ship’s stores.

“(2AA) The return referred to in subsection (2) must include details of any:

- (a) drugs that are prohibited imports; and
- (b) firearms; and
- (c) ammunition;

that are ship’s stores of the ship or have been taken on board the ship as ship’s stores.”.

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

28. Section 164 of the Principal Act is amended by:

- (a) omitting from paragraph (4A)(d) all the words after “a document” (first occurring) and substituting “of a kind, containing information of a kind, prescribed by the regulations; or”;
- (b) by omitting from subsection (4B) “relating to the diesel fuel” and substituting “of a kind prescribed by the regulations for the purposes of subsection (4A)”;
- (c) by omitting from subsection (4B) all the words after “an applicant” and substituting “if a Collector is satisfied that the applicant is unable to give the document because of circumstances beyond the applicant’s control”.

**Diesel fuel rebate—notification of sale etc.**

29. Section 164A of the Principal Act is amended:

- (a) by inserting “or uses the fuel for a purpose other than the purpose for which he or she purchased the fuel,” after “otherwise disposes of the fuel,”;

- (b) by omitting “or disposal” (wherever occurring) and substituting “, disposal or use”;
- (c) by omitting “or other disposal” and substituting “, other disposal or use”.

**Diesel fuel rebate—payment of penalty in lieu of prosecution** 5

30. Section 164AA of the Principal Act is amended:

- (a) by inserting in paragraph (1)(b) “, or of the use of the fuel for a purpose other than the purpose for which he or she purchased the fuel” after “fuel”;
- (b) by omitting from paragraph (1)(d) “or other disposal” and substituting “, other disposal or use”; 10
- (c) by inserting in subparagraph (2)(a)(i) “, or of the use of the fuel for a purpose other than the purpose for which he or she purchased the fuel” after “fuel”.

**Payments under protest** 15

31. Section 167 of the Principal Act is amended by omitting subsection (3) and substituting the following subsections:

“(3) If a documentary import entry has been made in respect of goods, a protest under this section is taken to have been made if, and only if, the owner of the goods or the agent of the owner: 20

- (a) writes on the entry ‘Paid under protest’; and
- (b) adds to the entry a description of the goods to which the protest relates (where the protest does not relate to all the goods covered by the entry) and a statement of the grounds on which the protest is made; and 25
- (c) signs the statement.

“(3A) If a computer import entry has been made by a registered COMPILE user in respect of goods, a protest under this section is taken to have been made if, and only if, the registered COMPILE user transmits to Customs: 30

- (a) the entry number; and
- (b) the words ‘Paid under protest’; and
- (c) a description of the goods to which the protest relates (where the protest does not relate to all the goods covered by the entry) and a statement of the grounds on which the protest is made.”. 35

**Powers of officers to inspect commercial documents in certain circumstances**

32. Section 214AA of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:

- “(a) a person has been authorised: 40
  - (i) to take goods into home consumption, to warehouse goods, or to tranship goods, under section 71B; or
  - (ii) to deal with goods under section 114C; and”.

**Powers of officers for purposes of section 164**

33. Section 214A of the Principal Act is amended by omitting from subsection (6) “234 (b), (e) or (f)” and substituting “234(1)(b) or (d)”.

**External search**

5 34. Section 219R of the Principal Act is amended by omitting from subsection (14) the definition of “authorised officer” and substituting the following definition:

10 “‘authorised officer’ means an officer of Customs who is a member of a class of officers of Customs declared by the Comptroller to be authorised officers in relation to particular circumstances or places.”.

**Customs offences**

35. Section 234 of the Principal Act is amended by omitting subsections (2A) and (2B) and substituting the following subsections:

15 “(2A) Where an export entry, a submanifest, an outward manifest or a withdrawal of such an entry, submanifest or manifest is taken, under subsection 119D(3), to have been communicated to Customs, then, for the purposes of paragraph (1)(d), the part of the communication constituting the transmission to Customs is treated as a statement made to the Comptroller.

20 “(2B) Where an import entry or a withdrawal of an import entry is taken, under section 71L, to have been communicated to Customs, then, for the purposes of paragraph (1)(d), the part of the communication constituting the transmission to Customs is treated as a statement made to the Comptroller.

25 “(2C) Nothing in subsection (2A) or (2B) is to be taken to affect the operation of any of the provisions of section 183.”.

**Security of identifying codes and PIN numbers**

36. Section 234AC of the Principal Act is amended by adding at the end, but before the penalty, the following subsection:

30 “(2) A registered COMPILE user must:

(a) take all reasonable steps, in accordance with the applicable COMPILE user agreement, to safeguard the security of the PIN number or PIN numbers allocated to the user; and

35 (b) notify Customs, at the earliest available opportunity, if the user is aware that a PIN number allocated to the user is, or is likely to be, known to any person other than the person to whom the user has made the number available in circumstances contemplated under the applicable COMPILE user agreement.”.

**Insertion of new sections**

37. After section 240 of the Principal Act, the following sections are inserted in Division 2:

**Rebate documents to be kept**

“240A.(1) A person who applies for rebate in respect of diesel fuel under subsection 164(1) (in this section called the ‘**applicant**’) must keep all relevant rebate documents: 5

- (a) that came into the applicant’s possession before the application is made; or
- (b) that come into the applicant’s possession after the application is made; 10

until the expiration of the period of 5 years after the application is made.

Penalty: \$2,000.

“(2) For the purposes of subsection (1), a document is a relevant rebate document if it is necessary to enable a Collector to ascertain: 15

- (a) the quantity of diesel fuel that was purchased by the applicant for use in a manner referred to in subsection 164(1); or
- (b) the manner in which the applicant used the fuel in respect of which the application for rebate is made. 20

“(3) If:

- (a) an applicant is required, under subsection (1), to keep a document; and
- (b) the applicant is required by any law of the Commonwealth or of a State or Territory, or in accordance with ordinary commercial practice to give the document to another person; 25

the requirements of this section are taken to be complied with if, after surrendering the document and for the period that the document would have been required to be kept, the applicant keeps, instead of the document, a true copy certified in accordance with subsection (4). 30

“(4) If an applicant is required to surrender a document referred to in subsection (1) for a reason set out in subsection (3), the applicant may:

- (a) make a true copy of the document; and
- (b) attach to the copy a certificate, signed by the applicant: 35
  - (i) stating that the copy is a true copy of the original document; and
  - (ii) stating that the original document has been surrendered to another person for a reason set out in subsection (3); and 40
  - (iii) providing particulars of that reason.

“(5) If an applicant makes a true copy and certifies the copy in accordance with subsection (4), the copy must be treated by the Comptroller or a Collector and is admissible in all courts as if it were the original document.

5 “(6) An applicant who is required by subsection (1) to keep documents:

(a) must keep the documents in a manner that enables a Collector readily to ascertain:

10 (i) the quantity of diesel fuel that was purchased by the applicant for use in a manner referred to in subsection 164(1); and

(ii) the manner in which the applicant used the fuel in respect of which the application for rebate is made; and

15 (b) must, if the Collector requests the applicant in writing to do so, inform the Collector of the location of the documents; and

(c) must not alter any document required to be so kept.

Penalty: \$2,000.

20 “(7) Nothing in paragraph (6)(c) is to be taken to prohibit the marking of a document in accordance with ordinary commercial practice.

“(8) This section does not require the keeping of any documents:

(a) by a company that has gone into liquidation and that has been dissolved; or

25 (b) by a class of persons that is declared by the regulations to be a class to which this section does not apply; or

(c) of a kind declared by the regulations to be documents to which this section does not apply.

### **Persons not to be subject to prosecution under sections 240 and 240A**

30 “240B. Proceedings may be brought against a person in respect of a failure to keep a document under either section 240 or section 240A, but not both.”.

### **Customs records of computer transmissions admissible in evidence**

38. Section 241 of the Principal Act is amended:

35 (a) by omitting subsection (1) and substituting the following subsection:

“(1) Customs must keep a record of all transmissions made to or by it:

(a) under the COMPILE computer system relating to an import entry or a withdrawal of such an entry; or

40 (b) under the EXIT computer system relating to an export entry, a submanifest, a manifest or a withdrawal of such an entry, submanifest or manifest;

for a period of 5 years after the transmission is communicated to, or by, Customs.”;

- (b) by omitting from subparagraph (2)(b)(i) “by whom or with whose identifying code the transmission was signed” and substituting “whose PIN number or identifying code was used for the purpose of the transmission”. 5

**Penalty for making false statements**

39. Section 243T of the Principal Act is amended by adding at the end the following subsection:

“(6) For the purposes of subsection (1), an import entry that is taken, under section 71L, to have been communicated to Customs is treated as a statement made to the Comptroller.”. 10

**Section 243T not to apply in certain cases**

40. Section 243V of the Principal Act is amended by adding at the end the following subsections: 15

“(3) Where the owner of goods or the agent of the owner is uncertain whether particular information included in a computer import entry made in respect of those goods might be regarded as false or misleading in a material particular, that owner or agent may, in that entry:

- (a) nominate that information as information of which the owner or agent is uncertain; and 20
- (b) set out the reasons for that uncertainty;

and, where the owner or agent does so, no penalty shall be imposed under section 243T in relation to that information.

“(4) Where the owner of goods or the agent of the owner is uncertain whether, because of the omission of particular information from a computer import entry made in respect of those goods, that import entry might be regarded as misleading in a material particular, the owner or agent may, in that entry: 25

- (a) specify the information that has been omitted; and 30
- (b) set out the reasons for uncertainty concerning the effect of its omission;

and, where the owner or agent does so, no penalty shall be imposed under section 243T in relation to that omission.”.

**Notices** 35

41. Section 273GAA of the Principal Act is amended:

- (a) by omitting from subsection (4) “the Minister” and substituting “the Comptroller”;
- (b) by omitting from subsection (9) “the Minister” and substituting “the Comptroller”. 40



**Review of decisions**

42. Section 273GA of the Principal Act is amended:

(a) by omitting paragraph (1) (aaaa);

(b) by inserting before paragraph (1)(b) the following paragraphs:

5 “(aab) a decision by an officer under section 69 to refuse to grant a permission under that section;

(aac) a decision by an officer under section 69 to revoke a permission granted under that section;

10 (aad) a decision by an officer under section 70 to refuse to grant a permission under that section;

(aae) a decision by an officer under section 70 to revoke a permission granted under that section;

(aaf) a decision by an officer under section 71 to refuse to authorise the delivery of goods into home consumption;

15 (aag) a decision by an officer under section 71B to cancel an authority to deal with goods;

(aah) a decision by an officer under section 71E to refuse an application of a permission to move goods;

20 (aai) a decision by the Comptroller under section 77A to refuse to register a person as a registered COMPILE user;

(aaj) a decision by the Comptroller under section 77A to cancel a person’s registration as a registered COMPILE user;”;

25 (c) by omitting paragraph (1)(g).

**Transitional**

43. Despite the amendments of sections 64, 64AA, 64AB, 64AC and 130B of the Principal Act made by this Act, any proceedings begun before the commencement of this Act under any of those sections may be continued as if the amendments of those sections made by this Act had not been made.

**PART 3—AMENDMENTS OF THE EXCISE ACT 1901**

**Principal Act**

44. In this Part, “Principal Act” means the *Excise Act 1901*<sup>2</sup>.

**Payment of duty**

45. Section 59 of the Principal Act is repealed and the following section is substituted:

“59. Subject to section 59A, the excise duty on excisable goods must be paid at the rate in force:

40 (a) when the goods are delivered into home consumption under section 61C(2); or

(b) when payment is made;  
whichever is the earlier.”.

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

46. Section 78A of the Principal Act is amended:

- (a) by omitting from paragraph (4A)(d) all the words after “a document” (first occurring) and substituting “of a kind, containing information of a kind, prescribed by the regulations; or”; 5
- (b) by omitting from subsection (4B) “relating to the diesel fuel” and substituting “of a kind prescribed by the regulations for the purposes of subsection (4A)”; 10
- (c) by omitting paragraph (4B)(b).

**Diesel fuel rebate—notification of sale etc.**

47. Section 78AA of the Principal Act is amended:

- (a) by inserting “or uses the fuel for a purpose other than the purpose for which he or she purchased the fuel,” after “otherwise disposes of the fuel,”; 15
- (b) by omitting “or disposal” (wherever occurring) and substituting “, disposal or use”;
- (c) by omitting “or other disposal” and substituting “, other disposal or use”. 20

**Diesel fuel rebate—payment of penalty in lieu of prosecution**

48. Section 78AB of the Principal Act is amended:

- (a) by inserting in paragraph (1)(b) “, or of the use of the fuel for a purpose other than the purpose for which he or she purchased the fuel” after “fuel”; 25
- (b) by omitting from paragraph (1)(d) “or other disposal” and substituting “, other disposal or use”;
- (c) by inserting in subparagraph (2)(a)(i) “, or of the use of the fuel for a purpose other than the purpose for which he or she purchased the fuel” after “fuel”; 30
- (d) by omitting from paragraph (3)(a) “subsection 78A(1)” and substituting “subsection (1) or (1A)”; 35
- (e) by omitting from paragraph (3)(b) “subsection (1)” and substituting “subsection 78A(1)”. 35

**Powers of officers for purposes of section 78A**

49. Section 99A of the Principal Act is amended by omitting from subsection (6) “120(vb), (vii) or (viii)” and substituting “120(1)(vb) or (vi)”.

**Insertion of new section**

50. After section 128 of the Principal Act the following section is inserted:

**Rebate documents to be kept**

5 “128A.(1) A person who applies for rebate in respect of diesel fuel under subsection 78A(1) (in this section called the ‘**applicant**’) must keep all relevant rebate documents:

(a) that came into the applicant’s possession before the application is made; or

10 (b) that come into the applicant’s possession after the application is made;

until the expiration of the period of 5 years after the application is made.

Penalty: \$2,000.

15 “(2) For the purposes of subsection (1), a document is a relevant rebate document if it is necessary to enable a Collector to ascertain:

(a) the quantity of diesel fuel that was purchased by the applicant for use in a manner referred to in subsection 78A(1); or

20 (b) the manner in which the applicant used the fuel in respect of which the application for rebate is made.

“(3) If:

(a) an applicant is required, under subsection (1), to keep a document; and

25 (b) the applicant is required by any law of the Commonwealth or of a State or Territory, or in accordance with ordinary commercial practice to give the document to another person;

the requirements of this section are taken to be complied with if, after surrendering the document and for the period that the document would have been required to be kept, the applicant keeps, instead of the document, a true copy certified in accordance with subsection (4).

30 “(4) If an applicant is required to surrender a document referred to in subsection (1) for a reason set out in subsection (3), the applicant may:

(a) make a true copy of the document; and

35 (b) attach to the copy a certificate, signed by the applicant:

(i) stating that the copy is a true copy of the original document; and

(ii) stating that the original document has been surrendered to another person for a reason set out in subsection (2); and

40 (iii) providing particulars of that reason.

“(5) If an applicant makes a true copy and certifies the copy in accordance with subsection (4), the copy must be treated by the Comptroller or a Collector and is admissible in all courts as if it were the original document.

“(6) An applicant who is required by subsection (1) to keep documents: 5

(a) must keep the documents in a manner that enables a Collector readily to ascertain:

(i) the quantity of diesel fuel that was purchased by the applicant for use in a manner referred to in subsection 78A(1); and 10

(ii) the manner in which the applicant used the fuel in respect of which the applicant for rebate is made; and

(b) must, if the Collector requests the applicant in writing to do so, inform the Collector of the location of the documents; and 15

(c) must not alter any document required to be so kept.

Penalty: \$2,000.

“(7) Nothing in paragraph (6)(c) is to be taken to prohibit the marking of a document in accordance with ordinary commercial practice. 20

“(8) This section does not require the keeping of any documents:

(a) by a company that has gone into liquidation and that has been dissolved; or

(b) by a class of persons that is declared by the regulations to be a class to which this section does not apply; or 25

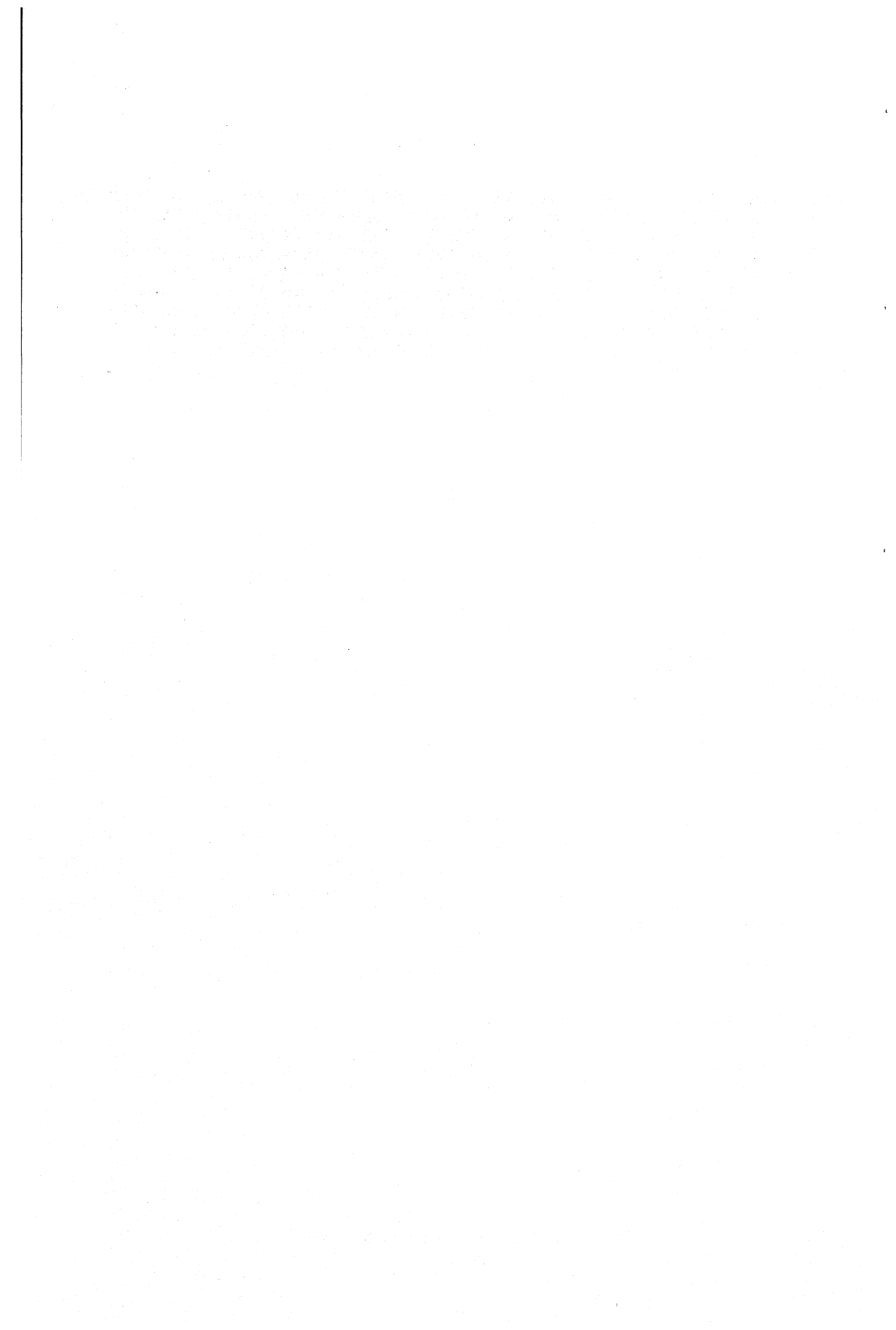
(c) of a kind declared by the regulations to be documents to which this section does not apply.”.

#### 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; Nos. 63, 66 and 76, 1988; Nos. 23, 24, 78, 108 and 174, 1989; Nos. 5, 6, 11, 70, 79 and 111, 1990; and No. 81, 1991.

**NOTES—continued**

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; Nos. 81 and 104, 1987; No. 99, 1988; Nos. 23, 24 and 78 of 1989; Nos. 5 and 111, 1990; and No. 80, 1991.







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