

CUSTOMS.

No. 47 of 1953.

An Act to amend the *Customs Act* 1901-1952.

[Assented to 26th October, 1953.]

[Date of commencement, 23rd November, 1953.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

Short title
and citation.

1.—(1.) This Act may be cited as the *Customs Act* 1953.

(2.) The *Customs Act* 1901-1952* is in this Act referred to as the *Principal Act*.

(3.) The *Principal Act*, as amended by this Act, may be cited as the *Customs Act* 1901-1953.

* Act No. 6, 1901, as amended by No. 21, 1906; Nos. 9 and 36, 1910; No. 19, 1914; No. 10, 1916; No. 11, 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. 35, 1949; Nos. 56 and 80, 1950; No. 56, 1951; and No. 168, 1952.

2. Section four of the Principal Act is amended by omitting the definition of "Officer" and inserting in its stead the following definition :—

Definitions.

" 'Officer' means a person—

- (a) employed in the service of the Customs ; or
- (b) authorized in writing by the Minister to perform the functions of an officer of Customs. "

3. Section twelve of the Principal Act is repealed.

Continuance of Officers.

4. Section one hundred and thirty A of the Principal Act is amended by omitting from sub-section (1.) the words " , out of a warehouse, under drawback, or by transshipment from the stores of another ship or aircraft, ships' stores or aircraft's "

Taking on board of ships' and aircraft's stores.

5. Section one hundred and sixty-three of the Principal Act is amended by omitting sub-sections (1.) and (2.) and inserting in their stead the following sub-section :—

Refunds of duty.

" (1.) Where—

- (a) goods have been damaged or pillaged during the voyage ;
- (b) goods have, while subject to the control of the Customs, been damaged, pillaged, lost or destroyed ;
- (c) duty has been paid through manifest error of fact or patent misconception of the law ;
- (d) after duty has been paid on goods, a by-law or determination is made under Part XVI. the effect of which is that duty is not payable on those goods or duty is payable on those goods at a rate which is less than the rate which was applicable when the goods were entered for home consumption ; or
- (e) the Collector is satisfied that, owing to a fault or defect in goods, the importer of the goods has received a reduction in or a refund, in whole or in part, of the price paid or to be paid for the goods,

a refund, rebate or remission, as the case requires, of the whole or a part of the duty may be made upon application being made in the prescribed manner and within the prescribed time, if any."

6. Section two hundred and seventy-one of the Principal Act is repealed and the following sections are inserted in its stead :—

" 271. Where—

Minister may make by-laws.

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

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

By-laws
specifying
goods.

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

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

Determinations.

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

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

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

By-laws and
determinations
for purposes of
repealed items.

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

Publication of
by-laws and
notification of
determinations.

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

- (a) shall be published in the *Gazette*, and has no force until so published ;
- (b) shall, subject to this Part—
 - (i) take effect, or be deemed to have taken effect, from the date of publication, or from a date (whether before or after the date of publication) specified by or under the by-law ; or
 - (ii) have effect, or be deemed to have had effect, for such period (whether before or after the date of publication) as is specified by or under the by-law ; and

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

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

- (a) the kind of goods to which the determination applies ;
- (b) the conditions, if any, specified in the determination ; and
- (c) the item or proposed item for the purposes of which the determination was made.

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

Retrospective
by-laws and
determinations
not to increase
duty.

“ 273D. Where—

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

By-laws and
determinations
for purposes of
Proposals.

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

“ 273E.—(1.) Notwithstanding section one hundred and thirty-eight of this Act—

- (a) duty is not chargeable on goods under an item, not being a by-law item, of a Customs Tariff if the goods are free from duty under a by-law item of that Tariff or if the duty chargeable on the goods under a by-law item of that Tariff is less than the duty chargeable on the goods under that first-mentioned item ; and
- (b) duty is not chargeable on goods under a by-law item of a Customs Tariff (other than a by-law item that applies to those goods by virtue of a by-law or determination which provides that that item applies to the goods, or to the class or kind of goods, specified in the by-law or determination to the exclusion of any other item of the Tariff) if the goods are free from duty under another item, whether it is a by-law item or not, of that Tariff or if the duty chargeable on the goods under another item, whether it is a by-law item or not, of that Tariff is less than the duty chargeable on those goods under that first-mentioned by-law item.

When duty
chargeable
under by-law
items.

“(2.) In this section, ‘by-law item’, in relation to a Customs Tariff, means an item of that Tariff that is expressed to apply to goods. or to a class or kind of goods, as prescribed by departmental by-laws.

Definitions.

“ 273F. In this Part—

‘ item ’ includes portion of an item ;

‘ proposed item of a Customs Tariff ’ means—

(a) an item of a Customs Tariff proposed in the Parliament ;
or

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