

(2.) Any copy of or extract from any document kept and registered at the office for the registration of companies in any State, if certified under the hand of the Registrar or an Assistant or Deputy-Registrar, shall in all Courts within the Commonwealth be admissible in evidence in all cases in which the original document is admissible in evidence and for the same purposes and to the same extent.

See N.S.W.,  
1898, No. 11,  
s. 32.

#### PROOF OF JUDICIAL PROCEEDINGS.

17. Evidence of any judgment decree rule order or other judicial proceeding of any Court of a State, including any affidavit pleading or other legal document filed or deposited in any such Court, may be given in all Courts within the Commonwealth by the production of a copy thereof—

Proof of judicial  
proceedings of  
State Court.

See N.S.W.,  
ib. 21,  
No. 1088 (Vic.),  
s. 16 U.S.

- (a) proved to be an examined copy thereof; or
- (b) purporting to be sealed with the seal of such Court; or
- (c) purporting to be signed by a Judge of such Court with a statement in writing attached by him to his signature that such Court has no seal and without proof of his judicial character or of the truth of such statement.

#### SUPPLEMENTAL.

18. All public acts records and judicial proceedings of any State, if proved or authenticated as required by this Act, shall have such faith and credit given to them in every Court and public office within the Commonwealth as they have by law or usage in the Courts and public offices of the State from whence they are taken.

Faith and credit  
to be given to  
documents  
properly  
authenticated.

See Constitution  
s. 118.  
U.S. Stat. II,  
1790 c. 11; Stat.  
I. 1804 c. 56.

19. The provisions of this Act shall be in addition to and not in derogation of any powers existing at common law, or given by any law at any time in force in any State.

This Act not to  
derogate from  
existing powers.  
Qd. ib. s. 14.  
F. C., ib. s. 7.

## CUSTOMS.

### No. 6 of 1901.

An Act relating to the Customs.

[Assented to 3rd October, 1901.]

**B**E it enacted by the King's Most Excellent Majesty the Senate and the House of Representatives of the Commonwealth of Australia as follows :—

#### PART I.—INTRODUCTORY.

1. This Act may be cited as the *Customs Act* 1901.
2. This Act shall commence on a day to be fixed by proclamation.\*

Short title.

Commence-  
ment.

Parts.

## 3. This Act is divided into parts as follows :—

- Part I.—Introductory.
- Part II.—Administration.
- Part III.—Customs Control, Examination, Entries, and Securities generally.
- Part IV.—The Importation of Goods.
  - Division 1.—Prohibited Imports.
  - Division 2.—The Boarding of Ships.
  - Division 3.—The Report of the Cargo.
  - Division 4.—The Entry, Unshipment, Landing, and Examination of Goods.
- Part V.—The Warehousing of Goods.
  - Division 1.—Licensed Warehouses.
  - Division 2.—King's Warehouses.
- Part VI.—The Exportation of Goods.
- Part VII.—Ships' Stores.
- Part VIII.—The Duties.
  - Division 1.—The Payment and Computation of Duties generally.
  - Division 2.—Ad valorem Duties.
  - Division 3.—Deposits Abatements Remissions and Refunds of Duties.
  - Division 4.—Disputes as to Duties.
- Part IX.—Drawbacks.
- Part X.—The Coasting Trade.
- Part XI.—Agents.
- Part XII.—Officers.
  - Division 1.—Powers of Officers.
  - Division 2.—Protection to Officers.
- Part XIII.—Penal Provisions.
  - Division 1.—Forfeitures.
  - Division 2.—Penalties.
- Part XIV.—Customs Prosecutions.
- Part XV.—Settlement of Cases by the Minister.
- Part XVI.—Regulations.
- Part XVII.—Miscellaneous.

Intpretation.

## 4. In this Act except where otherwise clearly intended—

- “Answer questions” means that the person on whom the obligation of answering questions is cast shall to the best of his knowledge, information, and belief truly answer all questions on the subject mentioned that the Collector shall ask.
- “By authority” means by the authority of the officer of Customs doing duty in the matter in relation to which the expression is used.
- “Carriage” includes vehicles and conveyances of all kinds.
- “Collector” includes the Comptroller and any Collector of Customs for the State and any principal officer of Customs doing duty at the time and place and any officer doing duty in the matter in relation to which the expression is used.

- “Comptroller” means the Comptroller-General of Customs.
- “Customs Acts” includes this Act and all laws and regulations relating to Customs in force within the Commonwealth or any part of the Commonwealth.
- “Days” does not include Sundays or holidays.
- “Documents” includes books.
- “Drawback” includes bounty or allowance.
- “Dutiable goods” includes all goods in respect of which any duty of Customs is payable.
- “Gazette notice” means a notice signed by the Minister and published in the *Gazette*.
- “Goods” includes all kinds of movable personal property.
- “Goods under drawback” includes all goods in respect of which any claim for drawback has been made.
- “Justice” means any Justice of the Peace having jurisdiction in the place.
- “Master” means the person in charge or command of any ship except a pilot or Government officer.
- “Officer” includes all persons employed in the service of the Customs.
- “Owner” in respect of goods includes any person (other than an officer of Customs) being or holding himself out to be the owner, importer, exporter, consignee, agent, or person possessed of, or beneficially interested in, or having any control of, or power of disposition over the goods.
- “Owner” in respect of a ship includes every person acting as agent for the owner or to receive freight or other charges payable in respect of the ship.
- “Parts beyond the seas” means any country outside of Australia.
- “Package” includes every means by which goods for carriage may be cased covered enclosed contained or packed.
- “Port” means any proclaimed port.
- “Prescribed” means prescribed by this Act.
- “Produce documents” means that the person on whom the obligation to produce documents is cast shall to the best of his power produce to the Collector all documents relating to the subject matter mentioned.
- “Ship” includes every description of vessel used in navigation not propelled by oars only.
- “Smuggling” means any importation or introduction or attempted importation or introduction of goods with intent to defraud the revenue.
- “The Customs” means the Department of Trade and Customs.
- “This Act” includes all regulations made thereunder.
- “Warehouse” means a warehouse licensed for the purposes of this Act.
- “Wharf” means a wharf appointed for the purposes of this Act.
- “Wharf owner” includes any owner or occupier of any wharf.

Indication of penalties.

5. The penalties referred to at the foot of sections indicate that any contravention of the section whether by act or omission shall be an offence against this Act punishable upon conviction by a penalty not exceeding (except as hereinafter provided) the penalty mentioned.

#### PART II.—ADMINISTRATION.

Administration.

6. Until it is otherwise lawfully determined the Customs Acts shall be administered by the Minister of State for the Commonwealth administering the Customs.

Comptroller-General.

7. There shall be a Comptroller-General of Customs who under the Minister shall be the permanent head of the Customs and shall have the chief control of the Customs throughout the Commonwealth.

State Collector.

8. There shall in each State be a Collector of Customs who subject to the Comptroller shall be therein the Chief Officer of the Customs and shall be called the Collector of Customs for the State.

Delegation by Minister.

9. In relation to any particular matters or class of matters or to any particular State or District the Minister may by writing under his hand delegate any of his powers under any Customs Act (except this power of delegation) so that the delegated powers may be exercised by the delegate with respect to the matters or class of matters specified or the State or District defined in the instrument of delegation.

Delegation by Comptroller.

10. The Comptroller with the written approval of the Minister may similarly delegate any of his powers under any Customs Act.

Revocation of delegation.

11. Every delegation, whether by the Minister or Comptroller shall be revocable in writing at will, and no delegation shall prevent the exercise of any power by the Minister or Comptroller.

Continuance of Officers.

12. All persons acting in the service of the Customs at the commencement of this Act shall be deemed to have been duly appointed.

Customs seal.

13. The seal of the Customs shall be the Royal Arms having the words "Australia—H.M. Customs" encircling the Arms and the name of the State and port added thereto. Such seal shall be judicially noticed.

Customs flag.

14. The vessels and boats employed in the service of the Customs shall be distinguished from other vessels and boats by such flag as shall be prescribed.

Appointment of boarding stations &c.

15. The Governor-General may by proclamation—

- (a) Appoint boarding stations for the boarding of ships by officers.
- (b) Establish ports and fix their limits.
- (c) Appoint wharfs within ports and fix their limits.

- 16.** Ports and wharfs may be established or appointed for specified limited purposes or without any such limitation. Appointment of ports and wharfs.
- 17.** The Minister may by *Gazette* notice— Appointment of sufferance wharfs &c.
- (a) Appoint sufferance wharfs in any port.
- (b) Appoint places for the examination of goods on landing.
- 18.** All boarding stations ports wharfs and examination places in actual use by authority at the commencement of this Act shall continue as if established or appointed under this Act. Continuance of boarding stations &c.
- 19.** Every wharf-owner shall provide to the satisfaction of the Collector suitable office accommodation on his wharf for the exclusive use of the officer employed at the wharf also such shed accommodation for the protection of goods as the Minister may in writing declare to be requisite. Accommodation on wharfs.
- Penalty : Twenty pounds.
- 20.** Carriages boats and lighters may be licensed for the carriage of goods subject to the control of the Customs upon payment of such fees and subject to such conditions as may be prescribed. Licences.
- 21.** The principal official of any railway in lieu of taking out a licence for each carriage to be used in the carriage of goods subject to the control of the Customs may give security for the due carriage and custody of all such goods on the railway, and thereupon all carriages of the railway shall be deemed to be licensed. Licensed railway carriages.
- 22.** All carriages boats and lighters licensed for the purposes of any State Customs Act at the commencement of this Act shall be deemed to be similarly licensed under this Act ; but unless actually licensed under this Act such carriages boats and lighters shall cease to be licensed on the expiration of the period for which the last payment of licence-fee was made prior to the commencement of this Act or such further time if any as may be prescribed, or as may be allowed by the Minister by *Gazette* notice. Continuance of licences.
- 23.** The licence for any carriage boat or lighter may be revoked by the Comptroller if the licensee shall be guilty of any fraud or misconduct or shall fail to comply with this Act. Revocation of licence.
- 24.** No person shall use any unlicensed carriage boat or lighter for the conveyance of goods subject to the control of the Customs. Unlicensed carriages or lighters.
- Penalty : Twenty pounds.
- 25.** Declarations under this Act may be made before the Minister Comptroller or any Collector or any Justice and also before any officer authorized in that behalf by the Minister or Comptroller. Before whom declarations may be made.
- 26.** No person shall knowingly receive a declaration under this Act by any person under the age of eighteen years. Declaration by youths.
- 27.** If the Governor-General shall so direct by proclamation any State Act relating to the inspection or testing of imported goods may be executed and enforced by the Customs. State inspection laws.

Working days  
and hours.

**28.** The working days and hours of the Customs shall be as prescribed and except when working overtime is permitted by the Collector cargo shall only be received loaded or worked on or discharged from any ship on working days and during working hours.

Penalty: Fifty pounds.

Overtime  
charges.

**29.** When working overtime is permitted overtime at prescribed rates shall be charged for the services of the officers.

**PART III.—CUSTOMS CONTROL EXAMINATION ENTRIES  
AND SECURITIES GENERALLY.**

Customs control  
of goods.

**30.** Goods shall be subject to the control of the Customs as follows:—

- (a) As to all goods imported—from the time of importation until delivery for home consumption or until exportation to parts beyond the seas whichever shall first happen.
- (b) As to all goods under drawback—from the time of the claim for drawback until exportation to parts beyond the seas.
- (c) As to all goods subject to any export duty—from the time when the same are brought to any port or place for exportation until the payment of the duty.

Goods on ships  
subject to  
Customs  
control.

**31.** All goods on board any ship or boat from parts beyond the seas shall also be subject to the control of the Customs whilst the ship or boat is within the limits of any port in Australia.

Right of  
examination.

**32.** The Control of the Customs especially includes the right of the Customs to examine all goods subject to such control.

Customs control  
of goods.

**33.** No goods subject to the control of the Customs shall be moved altered or interfered with except by authority and in accordance with this Act.

Penalty: One hundred pounds.

No claim for  
compensation  
for loss.

**34.** The Customs shall not be liable for any loss or damage occasioned to any goods subject to the control of the Customs except by the neglect or wilful act of some officer.

Goods imported  
through post.

**35.** Goods imported through the Post Office shall be subject to the control of the Customs equally with goods otherwise imported.

Entries.

**36.** Entries may be made and passed for all goods subject to the control of the Customs.

Owner to make  
entry.

**37.** Entries shall be made by the delivery of the entry by the owner to the Collector.

Person making  
entries to answer  
questions.

**38.** Any person making any entry shall if required by the Collector answer questions relating to the goods referred to in the entry.

Collector to pass  
entries.

**39.** Entries shall be passed by the Collector signing the entry, and on the passing of the entry the goods shall be deemed to be entered, and any entry so passed shall be warrant for dealing with the goods in accordance with the entry.

40. All goods in respect of which any entry has been made and passed shall forthwith be dealt with in accordance with the entry. Goods to be dealt with according to entry.  
 Penalty: Fifty pounds.

41. Goods being the personal baggage of passengers in any ship and not being dutiable goods may subject to any prescribed conditions be imported or exported without entry. Passengers' baggage.

42. The Customs shall have the right to require and take securities for compliance with this Act and generally for the protection of the revenue of the Customs, and pending the giving of the required security in relation to any goods subject to the control of the Customs may refuse to deliver the goods or to pass any entry relating thereto. Right to require security.

43. Where any security is required to be given such security may be by bond or guarantee or cash deposit or all or any of such methods so that in each case the security shall be approved by the Collector. Security.

44. When security is required for any particular purpose security may by the authority of the Comptroller be accepted to cover all transactions for such time and for such amount as the Comptroller may approve. General bonds may be given.

45. All Customs securities may after the expiration of three years from the date thereof or from the time specified for the performance of the conditions thereof be cancelled by the Comptroller. Cancellation of bonds.

46. If the Collector shall not at any time be satisfied with the sufficiency of any security the Collector may require a fresh security and a fresh security shall be given accordingly. New sureties.

47. The form of Customs security in Schedule I. hereto shall suffice for all the purposes of a bond or guarantee under this Act and without sealing shall bind its subscribers as if sealed and unless otherwise provided therein jointly and severally and for the full amount. Form of Customs security.

48. Whenever any such Customs security is put in suit by the Collector the production thereof without further proof shall entitle the Collector to judgment for their stated liability against the persons appearing to have executed the same unless the defendants shall prove compliance with the condition or that the security was not executed by them or release or satisfaction. Effect of Customs security.

#### PART IV.—THE IMPORTATION OF GOODS.

49. For the purpose of securing the due importation of goods— Importation.

- (1) The ship may be boarded.
- (2) The cargo shall be reported.
- (3) The goods shall be entered unshipped and may be examined.

*Division 1.—Prohibited Imports.*

Imports.

**50.** No prohibited imports shall be imported.  
Penalty : One hundred pounds.

Unregistered ships.

**51.** No goods may be imported in any ship which has not been lawfully registered in the country to which she belongs or which has not her certificate of registry on board unless the absence of the certificate is satisfactorily accounted for.  
Penalty : One hundred pounds.

Prohibited imports.

**52.** The following are prohibited imports :—

- (a) Any reproduction except by permission of the proprietor of the copyright of any work copyrighted in the King's dominions, and of the existence of which copyright and date of its expiration written notice has been given to the Minister by or on behalf of the proprietor of such copyright.
- (b) False money and counterfeit sterling and any coin or money of the King's dominions not being of the established standard in weight or fineness.
- (c) Blasphemous indecent or obscene works or articles.
- (d) Goods manufactured or produced wholly or in part by prison labour or which have been made within or in connexion with any prison, gaol, or penitentiary.
- (e) Exhausted tea, and tea adulterated with spurious leaf or with exhausted leaves, or being unfit for human use, or unwholesome.
- (f) Oleomargarine butterine or any similar substitute for butter unless coloured and branded as prescribed.
- (g) All goods the importation of which may be prohibited by proclamation.
- (h) All goods having thereon or therewith any false suggestion of any warranty guarantee or concern in the production or quality thereof by any persons public officials Government or country.
- (i) Mineral oil and mineral spirits unless imported under and subject to such restrictions as may be declared by proclamation.

Restrictions of spirits, &amp;c.

**53.** No spirits, opium, tobacco, snuff, cigars or cigarettes shall be imported except in packages as prescribed.  
Penalty : One hundred pounds.

Tea subject to examination on importation.

**54.** As to all tea imported :—

- (a) Samples shall be taken without payment and examined by the Collector.
- (b) Unless the Collector is as a result of the examination satisfied that the tea is not a prohibited import he shall submit the samples for analysis to an official analyst appointed by the Governor-General for the purposes of this Act.



- (c) If as the result of the analysis it appears that the tea is a prohibited import it shall after compliance with the next succeeding paragraph be dealt with accordingly.
- (d) Notice shall be given to the owner of the report of the analyst if the tea is thereby shown to be a prohibited import, and the owner shall be allowed fourteen days after the receipt of the notice to satisfy the Collector that the tea is not a prohibited import and if the Collector is not so satisfied the tea shall be a prohibited import.
- (e) Any tea not complying with the prescribed standard of strength and purity shall be deemed unfit for human use.

**55.** All goods lawfully prohibited to be imported into any State shall as regards that State be prohibited imports for the purposes of this Act.

State prohibitions.

**56.** The power of prohibiting importation of goods shall authorize prohibition subject to any specified condition or restriction and goods imported contrary to any such condition or restriction shall be prohibited imports.

Prohibition subject to restriction.

**57.** There shall be open to public inspection at the Customs House at the principal ports of Australia printed lists of all books wherein the copyright shall be subsisting and as to which the proprietor of such copyright or his agent shall have given notice in writing pursuant to section fifty-two that such copyright exists stating in such notice when such copyright expires.

List of copyright books to be exposed at principal ports.

### *Division 2.—The Boarding of Ships.*

**58.** The master of a ship shall not suffer his ship to enter any place other than a port unless from stress of weather or other reasonable cause.

Ships to enter ports.

Penalty : One hundred pounds.

**59.** The master of every ship arriving within one league of the coast shall bring his ship to for boarding on being approached by or hailed or signalled from any vessel in the service of the Customs having hoisted the Customs flag, or from any vessel in the service of His Majesty or of the Commonwealth having hoisted the proper ensign and pendant.

Ship to bring to on being signalled.

Penalty : One hundred pounds.

**60.** The master of every ship from parts beyond the seas bound to or calling at any port shall bring his ship to for boarding at the boarding station appointed for that port.

Ship to bring to at boarding station.

Penalty : Fifty pounds.

**61.** The master of every ship bringing to for boarding shall by all reasonable means facilitate boarding by the officer.

Facility for boarding.

Penalty : Twenty pounds.

Ships to come quickly to place of unloading.

**62.** The master of every ship after his ship has been brought to at the boarding station and boarded by the officer shall come up to the proper place of mooring or unloading as quickly as practicable without touching at any other place.

Penalty : Twenty pounds.

Ship not to be moved without authority.

**63.** No ship after arrival at the proper place of mooring or unloading shall except by authority or by direction of the harbor authority be removed therefrom before the discharge of the cargo intended to be discharged at the port.

Penalty : Twenty pounds.

*Division 3.—The Report of the Cargo.*

Report of cargo.

**64.** The master of every ship arriving from parts beyond the seas shall—

- (a) Within one day after arrival at any port make report of the ship and her cargo by delivering to the Collector an Inward Manifest in duplicate of goods for such port ;
- (b) Answer questions relating to the ship and her cargo crew passengers stores and voyage ;
- (c) Produce documents relating to the ship and her cargo.

Penalty : One hundred pounds.

Master of wrecked ship to report.

**65.** When any ship is lost or wrecked upon the coast the master or owner shall without any unnecessary delay make report of the ship and cargo by delivering to the Collector a Manifest so far as it may be possible for him to do so at the Customs house nearest to the place where the ship was lost or wrecked or at the chief Customs house of the State where the ship was lost or wrecked.

Penalty : Twenty pounds.

Goods derelict to be delivered to officer.

**66.** Whoever has any dutiable goods derelict flotsam jetsam lagan or wreck in his possession shall deliver the same to an officer without unnecessary delay.

Penalty : Twenty pounds.

Interference with derelict goods.

**67.** No person shall except by authority unnecessarily move alter or interfere with any goods derelict flotsam jetsam lagan or wreck.

Penalty : Twenty pounds.

*Division 4.—The Entry, Unshipment, Landing, and Examination of Goods.*

Entries.  
Kinds of entries.

**68.** All imported goods shall be entered either—

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

Sight Entry.

**69.** If the owner cannot immediately supply the full particulars for making an entry and shall make a declaration to that effect before the Collector he may make a Sight Entry.

Passing of Sight Entry.

**70.** A Sight Entry on being passed by the Collector shall be warrant for the landing and examination of the goods.

**71.** Within three days after the examination of the goods pursuant to any Sight Entry the owner shall make complete entry of the goods by the addition to the Sight Entry of the required particulars. Completion of Sight Entry.

**72.** Entries shall be made of the whole of any cargo unshipped or to be unshipped within such respective times after the report of the ship as may be prescribed or within such further time if any as the Collector may see fit to allow; and so that if the goods are placed in quarantine seven days at the least shall be allowed for entry after their release from quarantine. Entry within seven days.

(a) If default shall be made in the entry of any goods pursuant to this section the Collector may cause the goods to be removed to a warehouse; and if the goods are not claimed and entries passed therefor within six months after such removal the goods may be sold by the Collector.

(b) If the goods are of a perishable nature they may be sold at any time the Collector thinks fit either before or after warehousing.

**73.** The bulk cargo of a ship arriving within one league of the coast shall not be broken except with the permission of the Collector or as regards goods for which entry has been passed. Breaking bulk.  
Penalty : One hundred pounds.

**74.** Except as prescribed goods may be unshipped only pursuant to— Authority for unshipment.

(1) A Collector's permit ; or

(2) An entry passed.

Penalty : One hundred pounds.

**75.** All goods unshipped shall be either—

(a) Landed directly at a wharf or after conveyance thereto in a licensed boat or lighter from the ship ; or

(b) Transhipped direct to the ship into which they are to be transhipped or after conveyance thereto in a licensed carriage boat or lighter direct from the ship. Unshipment of goods.

Penalty : One hundred pounds.

**76.** Goods unshipped and landed under a Collector's permit shall be placed by and at the expense of the master or owner of the ship from which they were unshipped in a place of security approved by the Collector, and shall until lawfully removed therefrom be at the risk of the master or owner of the ship as if they had not been unshipped. Goods landed on permit at ship's risk.

**77.** Any goods may by authority be repacked or skipped on the wharf. Repacking on wharf.

## PART V.—THE WAREHOUSING OF GOODS.

### *Division 1.—Licensed Warehouses.*

**78.** Dutiable goods may be warehoused in warehouses licensed by the Minister. Dutiable goods may be warehoused.

Classes of  
warehouses.

**79.** There may be four classes of licensed warehouses as follows :—

Class I.—General warehouses to be used for warehousing goods generally.

Class II.—Private warehouses to be used only for warehousing goods the property of the licensee.

Class III.—Machinery warehouses to be used only for warehousing machinery and similar heavy or bulky goods.

Class IV.—Manufacturing warehouses to be used for warehousing goods for use under such conditions as may be prescribed in such warehouse in any manufacture trade or process and for carrying on in such warehouse any manufacture trade or process.

Annual fee.

**80.** Fees for warehouses according to the scale in Schedule II. shall be paid by the licensee as to the annual fees by equal quarterly payments in advance on the first days of January April July and October in each year, and as to the fees for lockers' attendance by monthly payments.

Cancellation of  
licences.

**81.** In default of payment of any part of any licence-fee for thirty days after any quarter day the Minister may by *Gazette* notice cancel the licence and thereupon the warehouse shall be closed and the goods therein shall be removed by the Collector to some other warehouse.

Continuation of  
existing  
licences.

**82.** All warehouses licensed for the purposes of any State Customs Act at the commencement of this Act shall be deemed to be similarly licensed under this Act but unless actually licensed under this Act such warehouses shall cease to be licensed on the expiration of the period for which the last payment of licence-fee was made prior to the commencement of this Act or such further time as may be prescribed or as may be allowed by the Minister by *Gazette* notice.

Officer to take  
account of goods  
landed to be  
warehoused.

**83.** Upon the landing of any goods to be warehoused or so soon as practicable thereafter the officer shall take a particular account of the goods and shall enter such account in a book.

Unless where otherwise provided such account shall be that upon which the duties shall be ascertained and paid.

Completion of  
warehousing.

**84.** When any goods entered for warehousing have been duly deposited in the warehouse the officer shall certify that the warehousing is complete by signing a receipt for the goods.

Removal of  
goods to  
warehouse.

**85.** If any goods entered to be warehoused are not warehoused accordingly by the owner the Collector may remove them to the warehouse.

The licensee of the warehouse shall pay all charges for the removal of goods removed by the Collector and shall have a lien on the goods for such charges.

Packages in  
which goods to  
be deposited.

**86.** Goods entered for warehousing shall be deposited in the warehouse in the packages in which they were imported except

goods repacked or skipped on the wharf which shall be deposited in the packages in which they were when the account was taken.

**87.** The Collector may as prescribed permit the owner to sort bottle pack or repack goods in any warehouse.

Repacking in warehouse.

**88.** Whenever goods are sorted bottled packed or repacked in a warehouse a fresh account of the goods shall be taken by the officer and shall be substituted for the original account.

Fresh account to be taken.

**89.** In all prescribed cases warehoused goods in manufacturing warehouses may in manner prescribed be utilized for manufacturing purposes and the manufactured article may be delivered for home consumption subject only to the payment of such duty (if any) as may be prescribed.

Delivery of goods manufactured in warehouses.

**90.** Warehoused spirits being not less than sixty per cent. over proof in strength may in manner prescribed be methylated so as to be rendered unfit for human use as a beverage and incapable of being converted to that use and when so methylated may be entered for home consumption for use in the arts and manufactures subject to the payment of such duty (if any) as may be prescribed.

Methylation of spirits.

**91.** No person shall treat refine or distil any methylated spirit for the purpose of rendering it fit for human use as a beverage or shall sell or offer for sale any methylated spirit so treated refined or distilled, or sell or offer for sale for human use as a food or beverage any goods containing methylated spirits.

Refining methylated spirits.

Penalty : One hundred pounds.

**92.** The licensee of every warehouse shall—

Duty of licensee.

- (1) Stack and arrange the goods in the warehouse so that reasonable access to and examination of every package may be had at all times.
- (2) Provide sufficient lights and just scales and weights for the use of the officer.
- (3) Find all labour and materials requisite for the storing examining packing marking cooping weighing and taking stock of the warehoused goods whenever the Collector may desire.
- (4) Pay the duty on all warehoused goods removed from his warehouse except by authority and on all warehoused goods not produced to the officer on demand unless such goods are accounted for to the satisfaction of the Collector.

Penalty : Twenty pounds.

**93.** No person shall except by authority open any warehouse or gain access to the goods therein.

Opening warehouse.

Penalty : Twenty pounds.

**94.** The Collector may require the owner of any goods in any private warehouse within a time to be specified by him to remove them to some general warehouse or to pay the duty thereon and if the order is not complied with the goods may be sold by the Collector.

Collector may order removal of goods from private to public warehouse.

- Period of warehousing. **95.** Goods warehoused in any warehouse for three years shall if not removed therefrom or re-warehoused be sold by the Collector.
- Re-warehousing. **96.** Re-warehousing shall be effected as follows:—
- (a) An application for re-warehousing shall be made by the owner to the Collector.
  - (b) The goods shall be examined by the officer at the expense of the owner.
  - (c) Duty shall be paid on any disallowed deficiency.
  - (d) A re-warehousing entry shall be made by the owner for the goods according to the result of the examination.
  - (e) On the passing of the entry a fresh account shall be substituted for the last account and this shall complete the re-warehousing.
- Goods for exhibition. **97.** In prescribed cases warehoused goods may be permitted to be taken out of the warehouse without payment of duty for the purpose of public exhibition or any similar purpose for such convenient time and in such suitable quantities as may be prescribed subject to the prescribed security for the return of the goods or payment of the duty.
- Collector to have access to warehouse. **98.** The Collector at all hours of the day and night shall have access to every part of any warehouse and power to examine the goods therein and for that purpose to break open the warehouse or any premises necessary to be passed through to secure access.
- Regauging or reweighing of goods. **99.** Warehoused goods may be regauged remeasured reweighed or examined by the officer either by direction of the Collector or at the request and expense of the owner and duty shall be payable according to the result unless the Collector is of opinion that any loss shown is excessive in which case the duty shall be paid on the original entry with any reduction which the Collector may see fit to allow.
- Revaluation. **100.** Warehoused goods subject to an *ad valorem* duty which have deteriorated in value may be revalued on the application of the owner and duty shall be paid according to the result if the Collector is satisfied that the deterioration has been accidentally caused.
- If warehouse fees in arrear goods to be sold. **101.** If the warehouse dues on any warehoused goods shall be in arrear for nine months the goods may be sold by the Collector.
- Goods not worth duty may be destroyed. **102.** The Comptroller may cause any warehoused goods which in the opinion of the Collector are not worth the duty payable thereon to be destroyed and may remit the duty.
- The owner of any goods destroyed shall pay to the licensee of the warehouse or to the Collector in case the goods were in a King's warehouse the rent and charges payable in respect of the destroyed goods.
- Combustible or inflammable goods. **103.** No goods of a combustible or inflammable nature shall be warehoused except by permission of the Collector, and if any such goods shall be landed the same may be deposited in any safe available place that the Collector shall approve, and whilst so deposited the

same shall be deemed to be in a King's warehouse and be liable to be sold by the Collector at the expiration of fourteen days in the same manner as goods of a perishable nature deposited in a King's warehouse unless duly cleared or warehoused in some warehouse with the approval of the Collector, and such goods shall be charged with the expenses for removing securing watching and guarding the same until sold.

Penalty : One hundred pounds.

104. Warehoused goods may be entered—

- (a) For home consumption.
- (b) For export to parts beyond the seas.
- (c) For removal for warehousing elsewhere.

Entry of  
warehoused  
goods.

105. If after goods have been entered for warehousing either on importation or removal and before they have been actually warehoused they shall be entered for home consumption exportation or removal the goods so entered shall be considered as constructively warehoused and may be delivered for home consumption exportation or removal as if actually warehoused.

Constructive  
warehousing.

#### *Division 2.—King's Warehouses.*

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

King's  
warehouse.

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

Rent.

108. King's warehouses in actual use by authority at the commencement of this Act shall continue as if appointed under this Act unless otherwise determined by the Minister by *Gazette* notice.

Continuation of  
existing  
warehouses.

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

Power to sell.

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

Purposes of  
King's  
warehousea.

#### PART VI.—THE EXPORTATION OF GOODS.

111. No prohibited exports shall be exported.  
Penalty : One hundred pounds.

Exportation.

112. The following are prohibited exports namely—

Prohibited  
exports.

All arms explosives military and naval stores the export of which is prohibited by proclamation including any article which the proclamation shall declare to be military or naval stores or to be capable of being converted into them or of being made useful in increasing the quantity thereof.

The proclamation may prohibit the exportation or carrying coastwise of the prohibited goods either generally or to any particular country or place and the prohibition shall have effect accordingly.

Size of exporting vessel.

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

Penalty: One hundred pounds.

Conditions for export.

**114.** Before any goods are taken on board a ship for export—

The ship shall be entered outwards and the goods shall be entered for export but—

(a) In the case of free goods it shall suffice if they be entered not later than three days after shipment; and

(b) The ship may be stiffened by permission of the Collector before entry outwards or export entry.

Goods to be shipped at wharf.

**115.** Goods subject to the control of the Customs for exportation or removal coastwise shall be shipped either directly at a wharf or after conveyance to the ship in a licensed boat or lighter direct from a wharf.

Penalty: One hundred pounds.

Short-shipped goods.

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

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

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

Penalty: Twenty pounds.

Documents and security.

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

Certificate of clearance.

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

Penalty: One hundred pounds.

Requisites for obtaining clearance.

**119.** Before any Certificate of Clearance shall be granted the master of the ship shall—

(a) Deliver to the Collector an Outward Manifest in duplicate.

(b) Answer questions relating to the ship and her cargo crew passengers stores and voyage.

(c) Produce documents relating to the ship and her cargo.

Shipment of unspecified goods.

**120.** The master of any ship shall not suffer any goods other than passengers' baggage not specified or referred to in the Outward Manifest to be taken on board his ship, except as provided in section one hundred and fourteen.

Penalty: Fifty pounds.



121. A copy of the Outward Manifest shall be attached to the Certificate of Clearance and be sealed with the Customs seal.

Manifest to be attached to clearance.

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

Time of clearance.

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

Ship to bring to at proper stations.

Penalty : One hundred pounds.

124. The master of every ship after clearance shall—

(a) On demand by an officer produce the Certificate of Clearance ;

Master to account for missing goods.

(b) Account to the satisfaction of the Collector for any goods specified or referred to in the Outward Manifest and not on board his ship.

Penalty : Fifty pounds.

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

Goods exported to be landed at proper destination.

Penalty : Fifty pounds.

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

Certificate of landing.

#### PART VII.—SHIPS' STORES.

127. Ships' stores whether shipped in parts beyond the seas or in the Commonwealth unless entered for home consumption or except as prescribed shall only be used by the passengers and crew and for the service of the ship and after the departure of such ship from her last port of departure in the Commonwealth.

Use of ships' stores.

128. No ships' stores shall be used contrary to the last preceding section or shall be unshipped except by permission of the Collector.

Re-landing ships' stores.

Penalty : Fifty pounds.

129. The prescribed allowance of ships' stores for the use of the passengers and crew and for the service of the ship may be shipped free of duty on board any ship of not less than fifty tons gross registered tonnage entered outwards for parts beyond the seas.

Ships' stores.

## PART VIII.—THE DUTIES.

*Division 1.—The Payment and Computation of Duties generally.\**Duties payable  
under State Act.

**130.** This Part of this Act shall not affect any duties payable under any State Act.

Exemption.

**131.** No goods the property of the Commonwealth shall be liable to any duty of Customs.

Import duties.

**132.** All import duties shall be paid at the rate in force when the goods are entered for home consumption.

Export duties.

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

Weights and  
measures.

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

Proportion.

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

Duty how fixed.

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

British  
currency.

**137.** All duties shall be paid in British currency.

Highest duties  
to be charged.

**138.** If any goods enumerated in the Tariff are or can be classed under two or more names headings or descriptions with a resulting difference as to duty duty shall be charged when it is a difference between liability to or freedom from duty and the higher or highest of the duties applicable shall be charged when it is a difference as to two or more duties.

Substitutes for  
dutiable goods.

**139.** Whenever any goods are imported which in the opinion of the Minister are a substitute for any dutiable goods or are intended to be or can be used as such substitute or for any purpose for which such dutiable goods can be used or for any similar purpose the Minister may by *Gazette* notice direct that such first mentioned goods shall be charged with the duty chargeable upon such dutiable goods and the same shall be so charged accordingly.

Duty on parts.

**140.—(1.)** Whenever any dutiable goods are composed of two or more separate parts any part though imported by itself shall if so directed by the Minister be chargeable with duty at the rate applicable to the complete goods.

**(2.)** When the duty on the complete goods is specific or both specific and *ad valorem* the Minister may fix the proportionate rate of duty with which any part shall be chargeable.

141. Duty shall be charged on all essences condensations concentrations or preparations of goods liable to duty according to the quantity or equivalent of dutiable goods into which such essences condensations concentrations or preparations can be converted according to a standard to be prescribed.

Duty on condensed articles.

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

Measurement for duty.

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

Goods in transitu.

144. All medicinal or toilet preparations not completely manufactured but imported for completing the manufacture thereof or for the manufacture of any other article by the addition of any ingredient or by mixing such preparations or by putting up or labelling the same alone or with other articles or compounds under any proprietary or trade name shall be irrespective of cost valued for duty and duty shall be paid thereon at the ordinary market value in the country whence imported of the completed preparation when put up and labelled under such proprietary or trade name less the actual cost of labour and material used or expended in Australia in completing the manufacture thereof or of putting up or labelling the same.

Proprietary medicines.

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

Value of goods sold.

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

Strength of spirits.

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

Obscuration.

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

Derelict goods dutiable.

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

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

150. Small samples of the bulk of any goods subject to the control of the Customs may subject to the prescribed conditions be delivered free of duty.

Samples.

Samples.

**151.** Goods the produce of Australia or samples of duty paid goods sent out of Australia may subject to any prescribed conditions be re-imported or brought back to Australia without payment of duty.

Alteration of agreements where duty altered.

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

- (a) In the event of the alteration being a new or increased duty the seller after payment of the new or increased duty may add the difference caused by the alteration to the agreed price.
- (b) In the event of the alteration being the abolition or reduction of duty the purchaser may deduct the difference caused by the alteration from the agreed price.
- (c) Any refund or payment of increased duty resulting from the alteration not being finally adopted shall be allowed between the parties as the case may require.

Recovery of duties.

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

*Division 2.—Ad Valorem Duties.*

Value for duty.

**154.** When any duty is imposed according to value—

- (a) The value shall be taken to be the fair market value of the goods in the principal markets of the country whence the same were exported in the usual and ordinary commercial acceptance of the term and free on board at the port of export in such country and a further addition of ten per cent. on such market value.
- (b) The value shall be verified at the time of entry by the production of the genuine invoice and by a declaration signed by the owner in the presence of the Collector.
- (c) The invoice shall be stamped by the Collector with the Customs stamp, and shall be produced to the officer prior to the delivery of the goods for home consumption or for warehousing.
- (d) If the non-production of the genuine invoice shall be accounted for to the satisfaction of the Collector proof of its contents by a copy or otherwise may be received in lieu of its production.

Genuine invoice.

**155.** The Genuine Invoice means—

- (a) The original invoice prepared and issued by the seller in the country whence the goods were exported showing the true description of the goods and the actual money price paid or to be paid for the goods by the purchaser in the country whence the same were exported without any deduction; or

- (b) In the case of goods consigned for sale in Australia the original invoice prepared and issued by the consignor showing the true description of the goods and the actual money price for cash at which such goods were saleable in the principal markets of the country whence such goods were exported at the date of the shipment of such goods free on board at the port of export in such country.

**156.** If the original invoice prepared and issued by the seller or consignor in the country whence the goods were exported cannot conveniently be obtained the Collector may permit to be substituted the original invoice prepared and issued by the last seller or consignor and the invoice so substituted shall be deemed the genuine invoice but so that—

Substituted invoice.

- (i.) The Collector shall first be satisfied that the value shown by the invoice of the last seller or consignor is not less than the fair market value in the country of export ascertained according to section one hundred and fifty-four.

- (ii.) The value shown by such invoice shall for the purpose of duty be taken to be the fair market value of the goods in the country of export ascertained according to section one hundred and fifty-four.

**157.** Where the genuine invoice shows the value of the goods in any currency other than British currency the equivalent value of the goods in British currency shall be ascertained according to a fair rate of exchange to be declared in case of doubt by the Minister.

Foreign invoices.

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

Value may be assessed.

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

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

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

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

Blank invoices.

Penalty: One hundred pounds.

**160.** Whenever it is difficult to determine the value of goods for duty, either because the goods are not sold for use or consumption in the country of production or because a lease of the goods or the right of using the same is sold or given but not the right of property therein, or because the goods have a royalty imposed thereon and the royalty is uncertain or is not a reliable means of estimating the value of the goods, or because the goods are usually or exclusively sold by or to agents or by subscription or are sold or imported in or

Minister to determine value in some cases.

under any other unusual or peculiar manner or conditions (of all which matters the Minister shall be judge) the Minister may determine the value for duty of the goods.

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

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

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

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

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

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

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

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

Deposits.

**162.** In prescribed cases the duty paid on any goods may be retained by the Customs on deposit for a period not exceeding six months, and the deposit may be returned to the owner if the goods are exported within the prescribed time.

Refund of duty.

**163.**—(1.) Whenever goods—

(a) Have received damage or have been pillaged during the voyage; or

(b) Have whilst under Customs control been damaged pillaged lost or destroyed; or

(2.) Whenever duty has been paid through manifest error of fact or patent misconception of the law—

a refund rebate or remission of the duty as the case may require shall be made in manner prescribed.

Duty on waste.

**164.** The Collector may remit any duty on any goods that have been wasted or lost in sorting bottling packing or repacking in a warehouse.

Short paid duty may be recovered.

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

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

No refund if  
duty altered.

*Division 4.—Disputes as to Duty.*

**167.** If any dispute shall arise as to the amount or rate of duty or as to the liability of goods to duty the owner may deposit with the Collector the amount of duty demanded and thereupon the following consequences shall ensue :—

Deposit of duty.

- (1) The owner upon making proper entry shall be entitled to delivery of the goods.
- (2) The deposit shall be deemed the proper duty unless by action commenced by the owner against the Collector within six months after making the deposit the contrary shall be determined, in which case any excess of the deposit over the proper duty shall be refunded by the Collector to the owner with Five pounds per centum per annum interest added.

The provisions of this section shall not apply to any goods which may be detained or seized for undervaluation or in respect to which any attempt to evade the payment of duty may have been made.

**PART IX.—DRAWBACKS.**

**168.** Drawbacks of import duty may be allowed on exportation in respect of such goods (other than spirits wine beer tobacco cigars cigarettes and opium) to such amount and in such manner as may be prescribed.

Drawbacks  
allowed.

**169.** If the Parliament of the State of Western Australia in exercise of the power conferred by the Constitution imposes duties of Customs on goods passing into that State then whilst such duties are so imposed drawback may be allowed in the State in which import duty has been paid in respect of any such goods as if exported.

Provision in  
case Western  
Australia  
continues Inter-  
State duties.

**170.** No drawback shall be allowed on any goods of a less value for home consumption than the amount of the drawback or on which the import duty paid did not amount to One pound.

Limit of value.

**171.** All goods in respect of which any claim for drawback shall be made shall before exportation be produced for examination by the Customs and shall be examined accordingly.

Examination of  
goods under  
drawback.

**172.** For the purpose of claiming drawback a drawback debenture shall be presented to the Collector, who shall as soon as the goods have been exported cause the debenture to be passed for payment.

Debenture to be  
passed.

**173.** The person claiming drawback on any goods shall make a declaration upon the debenture that the goods have been exported

Declaration on  
debenture.

and have not been re-landed and are not intended to be re-landed and that such person at the time of shipping was entitled to the drawback, and the name of such person shall be stated in the debenture, and the receipt of such person on the debenture countersigned by the holder of such debenture if the same shall have been transferred in the meantime shall be a sufficient discharge for such drawback.

Payment of drawback debentures.

**174.** No drawback debenture shall be paid except with the consent of the Minister—

(a) Unless presented for payment within one year from the date of the shipment of the goods for export.

And the Minister may

(b) Prohibit the payment in whole or in part of any drawback debenture but so as not to deprive the person entitled thereto of any remedy he may have for such drawback.

#### PART X.—THE COASTING TRADE.

What are coasting vessels.

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

Coasters not to take in cargo at sea or deviate.

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

Penalty : One hundred pounds.

Owner may report ship.

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

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

Account of Australian goods.

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

Regulation.

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

#### PART XI.—AGENTS.

Authorized agents.

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



either a person exclusively in the employment of the owner or shall be a customs agent duly licensed in manner prescribed.

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

Authority to be produced.

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

Agents personally liable.

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

Principal liable for agents acting.

## PART XII.—OFFICERS.

### *Division 1.—Powers of Officers.*

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

Ships and boats to bring to.

**185.** Any officer may require the master of any ship hovering within one league of the coast to depart, and if such ship shall fail to depart accordingly within twelve hours thereafter any officer may board and bring such ship into port and search her.

Officers may board ships hovering on coast.

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

Penalty : One hundred pounds.

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

Examine all goods.

**187.** Any officer may—

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

Power to board and search ships.

- Boarding.**      **188.** The power of an officer to board shall extend to staying on board any ship and the Collector may station an officer on board any ship, and the master shall provide sleeping accommodation in the cabin and suitable and sufficient food for such officer.  
Penalty : Fifty pounds.
- Searching.**      **189.** The power of an officer to search shall extend to every part of any ship, and shall authorize the opening of any package, locker, or place and the examination of all goods.
- Securing goods.**      **190.** The power of an officer to secure any goods shall extend to fastening down hatchways and other openings into the hold and locking up, sealing, marking, or otherwise securing any goods or the removal of any goods to the King's warehouse.
- Seals &c. not to be broken.**      **191.** No fastening, lock, mark, or seal placed by an officer upon any goods or upon any door hatchway opening or place upon any ship shall be opened, altered, broken or erased, except by authority, whilst the goods upon which the fastening, lock, mark, or seal is placed or which are intended to be secured thereby shall remain subject to the control of the Customs.  
Penalty : Fifty pounds.
- Or on vessels in port bound to another port within Commonwealth.**      **192.** No fastening, lock, mark, or seal placed by an officer upon any goods or upon any door, hatchway, opening, or place for the purpose of securing any stores upon any ship which has arrived in any port from parts beyond the seas and which is bound to any other port within the Commonwealth shall be opened, altered, broken, or erased except by authority ; and if any ship enters any port with any such fastening, lock, mark, or seal opened, altered, broken, or erased contrary to this section, the master shall be guilty of an offence against this Act.  
Penalty : One hundred pounds.
- Officers may patrol coasts &c.**      **193.** Any officer and any person acting in his aid when on duty may patrol upon and pass freely along and over any part of the coast or any railway or the shores, banks, or beaches of any port bay harbor lake or river.
- Boats on service may be moored in any place.**      **194.** The officer in charge for the time being of any vessel or boat employed in the service of the Customs may haul any such vessel or boat upon any part of the coast or the shores banks or beaches of any port bay harbor lake or river and may moor any such vessel or boat thereon and continue such vessel or boat so moored as aforesaid for such time as he shall deem necessary.
- Power to question passengers.**      **195.** Any person on board any ship or boat or who may have landed from or got out of any ship or boat may be questioned by any officer as to whether he has any dutiable goods upon his person or in his possession or in his baggage.
- Suspected persons--detention and search.**      **196.** If any officer of Customs or of police shall have reasonable cause to suspect that any person is unlawfully carrying or has any goods subject to the control of the Customs secreted about him the following consequences shall ensue :—  
(1) The officer may detain and search the suspected person.

(2) Before the suspected person shall be searched he may require to be taken before a Justice or the Collector.

(3) The Justice or Collector may order the suspected person to be searched or may discharge him without search.

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

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

Power to stop vehicles.

Penalty : Twenty pounds.

198. Any Judge of the High Court of Australia or any Judge of the Supreme Court of any State having jurisdiction in the State where the application is made may grant a Writ of Assistance in the form of Schedule III. hereto upon application made to him for that purpose by a Minister of State for the Commonwealth or by the Comptroller or a State Collector, and such writ unless superseded shall be in force so long as any person named therein remains an officer of Customs whether in the same capacity or not.

Writs of Assistance

199. The Comptroller or a State Collector may grant a Customs Warrant in the form of Schedule IV. hereto under the Customs Seal to any officer, and such warrant shall remain in force for one month from the date thereof.

Customs warrants.

A Customs Warrant granted by a State Collector shall only have force in the State where it is granted.

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

Power to search.

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

Power to take assistants.

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

Power to call for aid.

Penalty : Twenty pounds.

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

Power to seize goods.

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

Seized goods to be secured.

Notice to be given of goods seized.

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

Seized goods may be returned on security.

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

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

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

Disposal of forfeited ships and goods.

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

Delivery of seized goods.

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

Arresting suspects.

**210.** Any officer of Customs or police may without warrant arrest any person whom he has reasonable cause to believe has been guilty of smuggling contrary to the provisions of this Act, and no person shall resist or prevent such arrest.

Penalty : Twenty pounds.

Reasons for arrests.

**211.** Any officer arresting any person shall as soon as practicable after arrest give him a statement in writing of the reason for his arrest.

Arrested persons to go before Justices.

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

Powers of Justices with offenders.

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

- (1) Commit such person to gaol until he can be brought before Justices to be dealt with according to law ; or

- (2) Admit him to bail upon his giving sufficient security for his appearance before Justices at the time and place appointed for the hearing of the charge.

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

Production of documents &c. in cases of seizure.

Penalty : One hundred pounds.

**215.** The Collector may impound or retain any document presented in connexion with any entry or required to be produced under this Act, but the person otherwise entitled to such document shall in lieu thereof be entitled to a copy certified as correct by the Collector and such certified copy shall be received in all courts as evidence and of equal validity with the original.

Collector may impound documents.

**216.** The Collector may require from the owner of any goods proof by declaration or the production of documents that the goods are owned as claimed and are properly described valued or rated for duty and the Collector may refuse to deliver the goods or to pass any entry relating thereto pending such proof.

Collector may require further proof of proper entry.

**217.** If any document in a foreign language be presented to any officer for any purpose connected with Customs business, the Collector may require to be supplied with an English translation to be made at the expense of the owner by such person as the Collector may approve or to be verified as he may require.

Translations of foreign invoices.

**218.** Samples of any goods under the control of the Customs may for any purpose deemed necessary by the Collector be taken utilized and disposed of by any officer in manner prescribed.

Customs samples.

**219.** In all cases not herein otherwise provided for the Collector may exercise any power exercisable by the Customs.

General power of Collector.

#### *Division 2.—Protection to Officers.*

**220.** No person shall be liable for any seizure under this Act for which there shall have been reasonable cause, and when any claimant recovers any ship or goods seized or any proceeds thereof and at the same time reasonable cause for the seizure is found such finding shall bar all proceedings against all persons concerned in the seizing.

Reasonable cause for seizure a bar to action.

Notice of action to be given.

**221.** No proceeding shall be commenced against any officer for anything done in execution of or by reason of his office until one month next after notice in writing shall have been delivered to him or left at his usual place of abode by the plaintiff his attorney or agent in which notice shall be clearly stated the cause and nature of the proceeding and the court in which the same is intended to be instituted, the name and place of abode of the plaintiff and the name and place of business of such attorney or agent unless a Justice of the High Court of Australia or of the Supreme Court of a State has granted leave to the plaintiff to proceed without notice, which leave such Justice may grant on such terms as he may think just.

Defect in notice not to invalidate.

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

No evidence to be produced but that contained in notice.

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

Officer may tender amends.

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

Commencement of proceedings against officers.

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

Time for commencing action.

**226.** No proceeding whether against an officer or otherwise for anything done for the protection of the revenue in relation to any Tariff or Tariff alteration proposed in Parliament shall except as mentioned in the next section be commenced before the close of the session in which such Tariff or Tariff alteration is proposed.

Security may be required.

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

## PART XIII.—PENAL PROVISIONS.

*Division 1.—Forfeitures.*

228. The following ships or boats not exceeding two hundred and fifty tons registered tonnage shall be forfeited to His Majesty:— Forfeited ships.

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

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

229. The following goods shall be forfeited to His Majesty:— Forfeited goods.

- (a) All goods which are smuggled, or unlawfully imported, exported, or conveyed.
- (b) All goods imported which are prohibited imports excepting only goods the importation of which is prohibited by proclamation and which shall have been shipped to be imported without knowledge of the proclamation by the shipper and before the expiration of a reasonable time for the acquisition of knowledge thereof at the port of shipment.
- (c) All goods imported in any ship or boat in which goods are prohibited to be imported.
- (d) All dutiable goods found on any ship or boat being unlawfully in any place.
- (e) All goods found on any ship after arrival in any port and not being specified or referred to in the Inward Manifest and not being baggage belonging to the crew or passengers and not being satisfactorily accounted for.
- (f) All goods in respect of which bulk is unlawfully broken.
- (g) All goods which being subject to the control of the Customs shall be moved altered or interfered with except by authority and in accordance with this Act.

- (h) All goods which by this Act are required to be moved or dealt with in any way and which shall not be moved or dealt with accordingly.
- (i) All goods in respect of which any entry invoice declaration answer statement or representation which is false or wilfully misleading in any particular has been delivered made or produced.
- (j) Any carriage or animal used in smuggling or in the unlawful importation, exportation, or conveyance of any goods.
- (k) The cargo of any ship or boat which ship or boat hovers about the coast and does not depart within twelve hours after being required by an officer to depart.
- (l) All spirits opium tobacco snuff cigars or cigarettes in packages of less than the prescribed size or weight not being ships' stores found on or attached to any ship or boat.
- (m) All goods not being passengers' baggage found on any ship after clearance and not specified or referred to in the Outward Manifest and not accounted for to the satisfaction of the Collector.
- (n) All prohibited exports put on any ship or boat for export or brought to any wharf or place for the purpose of export.
- (o) All dutiable goods concealed in any manner.
- (p) Any package having concealed therein goods not enumerated in the entry or being so packed as to deceive the officer.
- (q) All dutiable goods found in the possession or in the baggage of any person who has got out of or landed from any ship or boat and who has denied that he has any dutiable goods in his possession, or who when questioned by an officer has not fully disclosed that such goods are in his possession or baggage.
- (r) All goods offered for sale on the pretence that the same are prohibited or smuggled goods.
- (s) All spirits which having been methylated are afterwards treated filtered refined distilled or otherwise dealt with in any manner so that any substance may be extracted therefrom.

Forfeited  
packages and  
goods.

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

*Division 2.—Penalties.*

Assembly for  
smuggling.

231. All persons to the number of two or more assembled for the purpose of smuggling, or for preventing the seizure of, or for rescuing after seizure any smuggled goods shall be guilty of an indictable offence and shall be liable to imprisonment with or without hard labour for any term not exceeding Five years.



**232. Whoever—**

- (a) Being an officer of the Customs or Police makes any collusive seizure or delivers up or makes any agreement to deliver up or not to seize any ship boat carriage or goods liable to forfeiture or conspires or connives with any person to import or export, or is in any way concerned in the importation or exportation of any goods for the purpose of seizing any ship boat carriage or goods and obtaining any reward for such seizure ; Collusive seizures penalty.
- (b) Gives, or procures to be given, or offers or promises to give or procure to be given any bribe recompense or reward to, or makes any collusive agreement with any officer to induce him in any way to neglect his duty, or who by threats demands or promises attempts to influence any officer in the discharge of his duty ; Bribe offered to officer penalty.
- (c) Rescues any goods which have been seized or before or at or after any seizure staves breaks or destroys any goods or documents relating thereto to prevent the seizure thereof or the securing the same or the proof of any offence ; Rescuing goods.
- (d) Assaults or by force resists molests or obstructs or endeavours to intimidate any officer or any person acting in his aid or assistance in the execution of his duties, Persons assaulting or obstructing officers.

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

**233.** No person shall smuggle or unlawfully import, export, convey or have in his possession any goods and no master of a ship or boat shall use or suffer his ship or boat to be used in smuggling or in the unlawful importation, exportation, or conveyance of any goods. Penalty for smuggling by master.

Penalty : One hundred pounds.

**234. No person shall—**

- (a) Evade payment of any duty which is payable ; Customs offences.
- (b) Obtain any drawback which is not payable ;
- (c) Prepare pass or present any document purporting to be a genuine invoice which is not in fact a genuine invoice ;
- (d) Make any entry which is false in any particular ;
- (e) Make in any declaration or document produced to any officer any statement which is untrue in any particular or produce or deliver to any officer any declaration or document containing any such statement ;
- (f) Mislead any officer in any particular likely to affect the discharge of his duty ;
- (g) Refuse or fail to answer questions or to produce documents ;
- (h) Sell or offer for sale any goods upon the pretence that such goods are prohibited imports or smuggled goods.

Penalty : One hundred pounds.

False oath or affirmation.

**235.** Whoever wilfully makes any false statement on oath under this Act shall be guilty of an indictable offence and shall be liable to imprisonment with hard labour for any period not exceeding four years.

Aiders and abettors.

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

Attempts.

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

Offences not specifically provided for.

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

Penalties in addition to forfeitures.

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

Maximum penalty in certain cases.

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

Maximum penalty in case of intent to defraud.

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

If previous conviction defendant may be imprisoned.

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

Minimum penalty.

**243.** The minimum pecuniary penalty for any offence against this Act shall be one-twentieth of the maximum which is prescribed in pounds.

#### PART XIV.—CUSTOMS PROSECUTIONS.

Interpretation.

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

How instituted.

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

(a) In the High Court of Australia ; or

(b) In the Supreme Court of any State ;

and when the prosecution is for a pecuniary penalty not exceeding Five hundred pounds or the excess is abandoned the Customs prosecution may be instituted in the name of the Collector in

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

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

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

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

Prosecution in accordance with practice rules.

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

State Court practice.

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

Commencement of prosecutions.

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

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

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

No objection for informality.

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

Conviction not to be quashed.

**253.** No witness on behalf of the Minister or Collector in any Customs prosecution shall be compelled to disclose the fact that he received any information or the nature thereof or the name of the person who gave such information, and no officer appearing as

Protection to witnesses.

a witness shall be compelled to produce any reports made or received by him confidentially in his official capacity or containing confidential information.

Defendant a competent witness.

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

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

Averment of prosecution sufficient.

255. In every Customs prosecution the averment of the prosecutor or plaintiff contained in the information declaration or claim shall be deemed to be proved in the absence of proof to the contrary but so that—

(a) When an intent to defraud the revenue is charged the averment shall not be deemed sufficient to prove the intent and—

(b) In all proceedings for an indictable offence or for an offence directly punishable by imprisonment the guilt of the defendant must be established by evidence.

Proof of proclamation &c.

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

Minimum penalties.

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

Treatment of convicted offenders.

258. Where any pecuniary penalty is adjudged to be paid by any convicted person the Court—

(1) may commit the offender to gaol until the penalty is paid ; or

(2) may release the offender upon his giving security for the payment of the penalty ; or

(3) may exercise for the enforcement and recovery of the penalty any power of distress or execution possessed by the Court for the enforcement and recovery of penalties in any other case.

Collector may levy on goods in his possession.

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

Release of offenders.

260. The gaoler of any gaol to which any person has been committed for non-payment of any penalty shall discharge such person—

(i.) on payment to him of the penalty adjudged ;

(ii.) on a certificate by the Collector that the penalty has been paid or realized ;

(iii.) if the penalty adjudged to be paid is not paid or realized according to the following table :—

Amount of Penalty.	Period after commencement of imprisonment at the expiration of which defendant is to be discharged.
£2 or under ... ..	Seven days.
Over £2 and not more than £5 ... ..	Fourteen days.
Over £5 and not more than £20 ... ..	One month.
Over £20 and not more than £50 ... ..	Two months.
Over £50 and not more than £100 ... ..	Three months.
Over £100 and not more than £200 ... ..	Six months.
Over £200 ... ..	One year.

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

Imprisonment not to release penalty.

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

Conviction to operate as a condemnation.

**263.** In all Customs prosecutions the Court may award costs against any party or claimant, and all provisions of this Act relating to the recovery of penalties except commitment to gaol shall extend to the recovery of any costs adjudged to be paid.

Parties may recover costs.

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

Application of penalties.

#### PART XV.—SETTLEMENT OF CASES BY THE MINISTER.

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

Settlement of disputes by Minister.

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

Minister's order to be final.

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

Powers of Minister at inquiries.

- (a) Summon the parties and any witnesses before him.
- (b) Take evidence on oath.

(c) Require the production of documents.

(d) Allow reasonable expenses to witnesses and costs to successful parties.

Obligations on witnesses.

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

(a) Disobey such summons ;

(b) Refuse to be sworn as such witness ;

(c) Refuse or fail to produce any document he may be required to produce ;

(d) Being sworn as a witness refuse or fail to answer any question lawfully put to him.

Penalty : Twenty pounds.

Minister may determine differences.

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

#### PART XVI.—REGULATIONS.

Regulations to have force of law.

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

Publication of regulations.

**271.** All regulations so made shall—

(i.) Be published in the *Gazette* ;

(ii.) Take effect from the date of publication or from a later date to be specified in such regulations ; and

(iii.) Be laid before both Houses of the Parliament within seven days after publication if Parliament is in session and if not then within seven days after the commencement of the next session ;

But if either House of the Parliament passes a resolution at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation such regulation shall thereupon cease to have effect.

#### PART XVII.—MISCELLANEOUS.

Dutiable goods passing from one State to another.

**272.** As regards goods imported before the imposition of uniform duties of Customs into any State or into any Colony which whilst the goods remain therein becomes a State and which on thence passing into another State within two years after the imposition of such duties become liable by the Constitution Act to any duty chargeable upon the importation of such goods into the Commonwealth less any duty paid in respect of the goods on their importation

# NSW SUPREME COURT LIBRARY

1901.

*Customs.*

No. 6.

101

this Act and any State Act relating to Customs shall apply to the collection of the duty to which such goods are liable in manner prescribed.

**273.** During the first five years after the imposition of uniform duties of Customs and thereafter until the Parliament otherwise provides the Customs shall in manner prescribed collect particulars of the duties of Customs chargeable on goods imported into a State and afterwards passing into another State for consumption and the duties of excise paid on goods produced or manufactured in a State and afterwards passing into another State for consumption and the same shall be furnished to the Treasurer of the Commonwealth so that the accounts between the States may be kept as required by the Constitution.

Records of Inter-State trade.

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

Commissioned ships may be reported.

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

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

Commissioned ships may be searched.

**276.** As to sales by the Collector—

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

Collectors' sales.

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

Proceeds of sales.

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

Secondly, in payment of the duty.

Thirdly, in payment of the warehouse rent and charges.

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

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

## SCHEDULES.

## SCHEDULE I.

## THE COMMONWEALTH OF AUSTRALIA.

*Security to the Customs.*

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

Dated the                      day of                      19 .

Names and Descriptions of Subscribers.	Signatures of Subscribers.	Signatures of Witnesses.

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

## SCHEDULE II.

## THE COMMONWEALTH OF AUSTRALIA.

*Scale of Fees for Warehouses to be Paid by Licensees.*

When the whole services of a locker are required	... ..	£200 per annum
When the whole services of more than one locker are required, for each additional locker after the first	... ..	£150 ,,
When only half the services of a locker are required	... ..	£100 ,,
When the whole services of a locker are not required, a charge of 2s. per hour for each hour or part of an hour necessary for the locker to be in attendance, and a sum to be fixed by the Minister, not exceeding	... ..	£50 ,,

All questions as to the number of lockers required and the time necessary for their attendance shall be determined by the Minister.

The above scale shall apply to the following places only :—

Sydney,  
Melbourne,  
Brisbane,  
Hobart,  
Adelaide and Port Adelaide,  
Perth and Fremantle.

At any other place such fees not exceeding the above scale shall be charged as may be prescribed.

## SCHEDULE III.

## THE COMMONWEALTH OF AUSTRALIA.

*Writ of Assistance.*

His Majesty the King.

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

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



any goods that he the said A.B. has reasonable cause to believe are forfeited to Us, and to take such goods to the nearest King's warehouse or to such other place of security as Our Collector of Customs for Our State of \_\_\_\_\_ in Our said Commonwealth shall direct.

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

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

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

Witness (name and description of the Judge testing the writ) at  
the \_\_\_\_\_ day of \_\_\_\_\_ One thousand nine hundred and  
(SEAL) \_\_\_\_\_ By the Court.

#### SCHEDULE IV.

##### THE COMMONWEALTH OF AUSTRALIA.

##### Customs Warrant.

To

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

This warrant shall remain in force for one month from the date thereof.

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

(SEAL)

Signature.

## BEER EXCISE.

### No. 7 of 1901.

An Act relating to Excise on Beer.

[ Assented to 5th October, 1901.]

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia as follows:—

#### PART I.—INTRODUCTORY.

1. This Act may be cited as "*The Beer Excise Act 1901.*"
2. This Act shall commence on a day to be fixed by proclamation.\*

Short title.

Commencement.

\* Proclaimed to commence 7th October, 1901. See *Gazette*, 5th October, 1901.