

## CUSTOMS.

### No. 12 of 1923.

An Act to amend the *Customs Act 1901-1922*.

[Assented to 17th August, 1923.]

**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:—

- 1.—(1.) This Act may be cited as the *Customs Act 1923*. Short title and citation.
- (2.) The *Customs Act 1901-1922* is in this Act referred to as the Principal Act.
- (3.) The Principal Act, as amended by this Act, may be cited as the *Customs Act 1901-1923*.
2. The Principal Act is amended as set out in the Schedule. Amendment of Principal Act.
3. The *Customs Act 1920* is repealed. Repeal of Act No. 41, 1920.
4. Section four of the Principal Act is amended— Interpretation.
  - (a) by inserting before the definition of "Answer questions" the following definitions:—
    - "Aerodrome" means any landing place for aircraft appointed for the purposes of this Act.
    - "Aerodrome owner" includes the occupier of any aerodrome.
    - "Aircraft" includes aeroplanes, seaplanes, airships, balloons or any other means of aerial locomotion."
  - (b) by inserting in the definition of "Owner", after the word "ship" (wherever occurring), the words "or aircraft"; and
  - (c) by inserting after the definition of "Package" the following definition:—
    - "Pilot" means the person in charge or command of any aircraft."
5. After section eight of the Principal Act the following section is inserted:—
 

"8A. The principal officer of Customs doing duty in the Northern Territory shall, in relation to the Northern Territory, have such of the powers and functions of a Collector of Customs for a State as the Comptroller-General specifies by notice published in the *Gazette*."

Powers and functions of principal officer in Northern Territory.

Appointment  
of boarding  
stations, &c.

6. Section fifteen of the Principal Act is amended—

(a) by inserting in paragraph (a), after the word “ships”, the words “and aircraft”; and

(b) by adding at the end thereof the following paragraph :—

“(d) appoint aerodromes, whether within the limits of a proclaimed port or otherwise, and fix their limits.”.

Collector to  
pass entries.

7. Section thirty-nine of the Principal Act is amended by omitting the words “signing the entry” and inserting in their stead the words “placing on the entry the word ‘Passed’ and adding his signature thereto”.

Customs  
security.

8. Section forty-eight of the Principal Act is amended by adding at the end thereof the following sub-section :—

“(2.) If it appears to the Court that a non-compliance with a Customs security has occurred, the security shall not be deemed to have been discharged or invalidated, and the subscribers shall not be deemed to have been released or discharged from liability by reason of—

(a) an extension of time or other concession ;

(b) the Customs having consented to, or acquiesced in, a previous non-compliance with the condition ; or

(c) the Collector having failed to bring suit against the subscribers upon the occurrence of a previous non-compliance with the condition.”.

List of  
copyright works  
to be exposed  
at principal  
ports.

9. Section fifty-seven of the Principal Act is amended by omitting the word “books” and inserting in its stead the word “works”.

Heading to  
Division 2 of  
Part IV.

10. Division 2 of Part IV. of the Principal Act is amended by adding at the end of the heading thereto the words “and Aircraft”

Ship to bring to  
and aircraft to  
land, on being  
signalled.

11. Section fifty-nine of the Principal Act is amended by adding at the end thereof the following sub-section :—

“(2.) The pilot of every aircraft arriving within one league of the shore shall bring his aircraft to the nearest aerodrome for boarding on being approached by or signalled from any vessel or aircraft in the service of His Majesty or of the Commonwealth having hoisted the proper ensign or pendant or displayed the proper signal.

Penalty : One hundred pounds.”.

Ship to bring to  
at boarding  
station and  
aircraft to land  
at aerodrome.

12. Section sixty of the Principal Act is amended by adding at the end thereof the following sub-section :—

“(2.) The pilot of every aircraft from parts beyond the sea bound to or calling at any place within the Commonwealth, shall bring his aircraft for boarding to the aerodrome nearest to the place at which he enters Australia.

Penalty : Fifty pounds.”.

13. Section sixty-four of the Principal Act is repealed and the following section inserted in its stead :—

“ 64. As to every ship or aircraft arriving from parts beyond the seas— Report of cargo.

(a) the master, owner or pilot shall, within one day after arrival at any port or aerodrome, make report of the ship or aircraft and her cargo by delivering to the Collector an Inward Manifest in duplicate of goods for that port or aerodrome ;

(b) the master and owner of the ship or the pilot and owner of the aircraft shall severally answer questions relating to the ship or aircraft and her cargo, crew, passengers, stores and voyage ; and

(c) the master and owner or the pilot and owner shall severally produce documents relating to the ship or aircraft and her cargo.

Penalty : One hundred pounds.”.

14. Section sixty-five of the Principal Act is amended by adding at the end thereof the following sub-section :— Master or pilot of wrecked ship or aircraft to report.

“(2.) When any aircraft arriving from parts beyond the seas is lost or wrecked at any place within the Commonwealth, the pilot or owner shall, without any unnecessary delay, make report of the aircraft and cargo by delivering to the Collector a Manifest, as far as it may be possible for him to do so, at the Customs House nearest to the place where the aircraft was lost or wrecked.

Penalty : Twenty pounds.”.

15. Section eighty of the Principal Act is repealed and the following section inserted in its stead :—

“ 80. The fees payable by licensees for warehouses shall be as prescribed, and shall be paid within such periods or at such times as are prescribed.”. Warehouse fees.

16. Section eighty-one of the Principal Act is amended by omitting the words “any quarter day” and inserting in their stead the words “the prescribed time for payment”. Cancellation of licences.

17. Section eighty-three of the Principal Act is amended by adding at the end thereof the following proviso :— Amendment of s. 83.

“Provided that, where the Collector is satisfied that the account is incorrect, by reason of the existence of error or other cause, he may direct the amendment of the account, and in that event the account as so amended shall be that upon which the duties shall be ascertained and paid.”.

18. Section eighty-five of the Principal Act is repealed and the following section inserted in its stead :—

“ 85.—(1.) If any goods entered to be warehoused are not warehoused accordingly by the owner, the Collector may remove them to the warehouse named in the entry or to a King’s warehouse. Removal of goods to warehouse.

“(2.) Where the goods have been so removed, the licensee of the warehouse, or, in the case of removal to a King’s warehouse, the Collector, shall pay all charges for the removal of the goods, and shall have a lien on the goods for those charges.”

19. After section one hundred and fourteen of the Principal Act the following section is inserted :—

Entries in regard to arms, explosives, &c.

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

Penalty : One hundred pounds.

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

20. Section one hundred and nineteen of the Principal Act is repealed and the following section inserted in its stead :—

Requisites for obtaining clearance.

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

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

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

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

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

21. Section one hundred and twenty-three of the Principal Act is amended by adding at the end thereof the following sub-section :—

Ship to bring to and aircraft to land at proper stations.

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

Penalty: One hundred pounds.”.

22. Part VII. of the Principal Act is amended by inserting in the heading thereto, after the word “SHIPS”, the words “AND AIRCRAFT’S”.

Heading to Part VII.

23. Section one hundred and twenty-nine of the Principal Act is amended by adding at the end thereof the following sub-section :—

Ships' and aircraft's stores.

“(2.) The prescribed allowance of aircraft's stores for the use of the passengers and crew and for the service of the aircraft may be shipped free of duty on board any aircraft entered outwards for parts beyond the seas.”.

24. Section one hundred and thirty-one of the Principal Act is amended by adding at the end thereof the following sub-section :—

Exemption.

“(2.) This section shall not apply to goods intended for purposes of trade, or goods intended for consumption in Australian waters on trading vessels, or intended for consumption within the Commonwealth on trading aircraft, owned or managed by the Commonwealth.”.

25. Section one hundred and sixty-seven of the Principal Act is amended by inserting in sub-section (3.) thereof, after the word “adding” the words “a statement of the grounds upon which the protest is made, and, if the entry relates to more than one description of goods, the goods to which the protest applies, followed by”.

Manner of making protest.

26. Section one hundred and sixty-nine of the Principal Act is repealed.

Provision in case Western Australia continues Interstate duties.

27. Section one hundred and eighty-seven of the Principal Act is amended by inserting, after the word “ship” (wherever occurring), the words “boat or aircraft”.

Power to board and search ships.

28. Section one hundred and eighty-nine of the Principal Act is amended by inserting, after the word “ship”, the words “boat or aircraft”.

Searching.

29. Section two hundred of the Principal Act is amended by inserting, after the words “Customs Warrant”, the words “in the form of Schedule IV. hereto, or any officer of police having with him any such Warrant,”.

Power to search.

Power to take  
assistants.

30. Section two hundred and one of the Principal Act is amended by inserting, after the words "Customs Warrant", the words "in the form of Schedule IV. hereto".

Power to enter  
and seize  
documents, &c.

31. Section two hundred and fourteen of the Principal Act is amended by adding at the end thereof the following sub-sections :—

"(2.) For the purposes of this section the Collector may issue to any officer a Customs Warrant in the form of Schedule V. hereto under the Customs Seal, and such warrant shall remain in force for one month from the date thereof.

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

(a) the house, premises or place ;

(b) any person therein or thereon ; and

(c) any chests, trunks or packages therein or thereon,

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

32. Section two hundred and twenty-eight of the Principal Act is repealed and the following section inserted in its stead :—

Forfeited ships  
and aircraft.

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

(1.) Any ship boat or aircraft used in smuggling, or knowingly used in the unlawful importation, exportation, or conveyance of any prohibited imports or prohibited exports.

(2.) Any ship boat or aircraft found within one league of the coast or of land failing to bring to, or failing to land at an aerodrome, for boarding upon being lawfully required to do so.

(3.) Any ship boat or aircraft hovering within one league of the coast or of land and not departing within twelve hours after being required to depart by an officer.

(4.) Any ship boat or aircraft from which goods are thrown overboard staved or destroyed to prevent seizure by the Customs.

(5.) Any ship boat or aircraft found within any port or aerodrome with cargo on board and afterwards found light or in ballast or with the cargo deficient and the master or pilot of which is unable to lawfully account for the difference.

(6.) Any ship boat or aircraft within one league of the coast or land having false bulk heads false bows sides or bottoms or any secret or disguised place adapted for the purpose of concealing goods or having any hole pipe or other device adapted for the purpose of running goods.

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

**33.** Section two hundred and thirty-four of the Principal Act is amended by inserting in paragraph (b) after the word "drawback" the words ", refund, rebate or remission".

Customs offences.

**34.** Section two hundred and forty-eight of the Principal Act is amended by adding at the end thereof the words ", and notwithstanding anything to the contrary in the law of the State, an appeal shall lie from an order of dismissal to any court to which and in the manner in which an appeal lies from a conviction".

State court practice.

**35.** Section two hundred and fifty-five of the Principal Act is repealed and the following section inserted in its stead:—

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

Averment of prosecutor sufficient.

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

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

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

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

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

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

**36.** Section two hundred and seventy of the Principal Act is amended—

Regulations.

(a) by omitting from paragraph (c) of sub-section (1.) thereof the word "and"; and

(b) by inserting after paragraph (d), in sub-section (1.) thereof, the following paragraph:—

"and (e) the conditions of carriage of goods subject to the control of the Customs, and the obligations of persons accepting such goods for carriage."

Repeal of s. 271.

37. Section two hundred and seventy-one of the Principal Act is repealed.

Proceeds of sales.

38. Section two hundred and seventy-seven of the Principal Act is amended by inserting before the word "freight" (wherever occurring) the words "harbor and wharfage dues and".

Repeal of Schedule II.

39. Schedule II. to the Principal Act is repealed.

Amendment of Schedule IV.

40. Schedule IV. to the Principal Act is amended by omitting therefrom the words "one month" and inserting in their stead the words "three months".

Schedule V.

41. After Schedule IV. to the Principal Act the following Schedule is inserted :—

"SCHEDULE V.

THE COMMONWEALTH OF AUSTRALIA.

Customs Warrant.

To

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

Whereas goods have been seized or detained)

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

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

Dated this            day of            19            .

(Seal)

(Signature)

THE SCHEDULE.

CONSEQUENTIAL AMENDMENTS IN THE PRINCIPAL ACT.

Section.	Extent of Amendment.
3	After "ships" insert "and aircraft".
	After "ships" insert "and aircraft's".
14	Omit "and boats" (wherever occurring) and insert in their stead "boat and aircraft".
	After "flag" insert "or in such other manner".
16	Omit "and wharfs" and insert in their stead "wharfs and aerodromes".
19	After "wharf-owner" insert "and aerodrome owner".
	After "wharf" (first occurring) insert "or at his aerodrome".
	After "wharf" (second occurring) insert "or aerodrome".
31	Omit "or boat" (wherever occurring) and insert in their stead "boat or aircraft".
41	After "ship" insert "or aircraft".
49	After "ship" insert "or aircraft".
51	After "ship" insert "or aircraft".
58	After "ship" (first occurring) insert "or the pilot of any aircraft".
	After "ship" (second occurring) insert "or aircraft".



THE SCHEDULE—*continued.*

Section.	Extent of Amendment
58	After "port" insert "or aerodrome".
61	After "ship" insert "or the pilot of every aircraft". After "to" insert "or landing at an aerodrome".
62	After "ship" (first occurring) insert "or the pilot of every aircraft". After "ship" (second occurring) insert "or aircraft". After "station" insert "or landed at the aerodrome".
63	After "ship" insert "or aircraft". After "harbor" insert "or aerial". After "port" insert "or aerodrome".
72	After "ship" insert "or aircraft".
73	After "ship" insert "or aircraft".
75	After "wharf" insert "or aerodrome".
76	After "ship" (second and last occurring) insert "or aircraft". After "ship" (wherever occurring) insert "or the pilot or owner of the aircraft".
114	After "ship" (wherever occurring) insert "or aircraft".
115	After "wharf" (wherever occurring) insert "or aerodrome". After "ship" insert "or aircraft".
116	Omit "or lighter" and insert in their stead "lighter or vehicle". After "ship" insert "or aircraft".
118	After "ship" (first occurring) insert "or the pilot of any aircraft". After "ship" (second occurring) insert "or aircraft". After "port" insert "or aerodrome".
120	After "ship" (first occurring) insert "or the pilot of any aircraft". After "ship" (second occurring) insert "or aircraft".
122	After "ship" (wherever occurring) insert "or aircraft".
124	After "ship" (first occurring) insert "and the pilot of every aircraft". After "ship" (second occurring) insert "or aircraft".
127	After "ships" insert "or aircraft's". After "ship" (wherever occurring) insert "or aircraft".
128	After "ships" insert "or aircraft's".
149	After "ship" (first occurring) insert "or aircraft". After "ship" (second occurring) insert "or the pilot or owner of the aircraft".
175	After "ships" (wherever occurring) insert "or aircraft". After "port" (wherever occurring) insert "aerodrome".
176	After "ship" (first occurring) insert "or the pilot of any aircraft". After "ship" (second and last occurring) insert "or aircraft". After "sea" insert "or into any other aircraft".
177	After "ship" (first and second occurring) insert "or aircraft". After "ship" (last occurring) insert "or the pilot of such aircraft".
184	Omit "or boat" (wherever occurring) and insert in their stead "boat or aircraft". After "ship" (third and last occurring) insert "or aircraft".
185	After "bring to" (wherever occurring) insert "or land at the aerodrome". After "ship" (first occurring) insert "or the pilot of any aircraft". After "coast" insert "or of land". After "ship" (second, third, fourth, fifth, and last occurring) insert "or aircraft".
188	After "port" insert "or aerodrome". After "ship" (wherever occurring) insert "or aircraft".
191	After "master" insert "or pilot". After "ship" insert "or aircraft".
192	After "ship" (wherever occurring) insert "or aircraft". After "port" (wherever occurring) insert "or aerodrome". After "master" insert "or pilot".
195	Omit "or boat" (wherever occurring) and insert in their stead "boat or aircraft".
203	After "ship" (wherever occurring) insert "aircraft".

## THE SCHEDULE—continued.

Section.	Extent of Amendment.
205	After "ship" (wherever occurring) insert "aircraft". After "master" (wherever occurring) insert "pilot". After "ships" insert "aircraft".
206	After "ship" insert "aircraft".
208	After "ships" insert "aircraft".
220	After "ship" insert "aircraft".
229	Omit "or boat" (wherever occurring) and insert in their stead "boat or aircraft". After "port" insert "or aerodrome". After "coast" insert "or land". Omit "ships" and insert "ship's or aircraft's".
233	After "ship" (third and seventh occurring) insert "or aircraft". After "ship" insert "or aircraft". After "ship's" insert "or aircraft's". After "port" (wherever occurring) insert "or aerodrome".
233A	After "boat" (first occurring) insert "or the pilot of an aircraft". Omit "or boat" (second occurring) and insert in their stead "boat or aircraft".
233B	After "ship" insert "or aircraft".
274	After "ship" insert "or aircraft". After "ship's" insert "or aircraft's".
275	After "ships" (wherever occurring) insert "or aircraft". Omit "ship's" and insert "ships' or aircraft's".

## TASMANIA GRANT.

## No. 13 of 1923.

An Act to grant and apply out of the Consolidated Revenue Fund a sum for the purposes of Financial Assistance to the State of Tasmania.

[Assented to 22nd August, 1923.]

Preamble.

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, for the purpose of appropriating the grant originated in the House of Representatives, as follows:—

Short title.

1. This Act may be cited as the *Tasmania Grant Act 1923*.

Appropriation of £85,000 for financial assistance to Tasmania.

2. There shall be payable out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, for the purposes of financial assistance to the State of Tasmania during the year ending the thirtieth day of June One thousand nine hundred and twenty-four, the sum of Eighty-five thousand pounds.

Instalments to be determined by Treasurer.

3. The amount payable under this Act shall be paid in such instalments as the Treasurer may determine.