

CUSTOMS.

No. 48 of 1963.

An Act to amend the Law relating to the Customs.

[Assented to 16th October, 1963.]

BE it enacted by the Queen'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* 1963.

(2.) The *Customs Act* 1901–1960* is in this Act referred to as the Principal Act.

Short title
and citation.

* Act No. 6, 1901 as amended by No. 21, 1906; Nos. 9 and 36, 1910; No. 19, 1914; No. 10, 1916; No. 19, 1922; No. 12, 1923; No. 22, 1925; No. 6, 1930; Nos. 7 and 45, 1934; No. 7, 1935; No. 85, 1936; No. 54, 1947; No. 45, 1949; Nos. 56 and 80, 1950; No. 56, 1951; No. 108, 1952; No. 47, 1953; No. 66, 1954; No. 37, 1957; No. 54, 1959; and Nos. 42 and 111, 1960.

(3.) The Principal Act, as amended by this Act, may be cited as the *Customs Act 1901-1963*.

2.—(1.) Except as provided by this section, this Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

(2.) Section five, sub-section (1.) of section fourteen and sections fifteen, sixteen, twenty, twenty-two, thirty-one and thirty-two of this Act shall come into operation on such dates as are respectively fixed by Proclamation.

3. Section three of the Principal Act is amended by omitting the word and figures “(Sections 127-130A)” and inserting in their stead the word and figures “(Sections 127-130B)”. Parts.

4. Section four of the Principal Act is amended— Interpretation.

(a) by inserting in sub-section (1.), after the definition of “The Customs”, the following definition:—

“‘The Northern Territory’ means the Northern Territory of Australia.”; and

(b) by adding at the end thereof the following sub-section:—

“(3.) A reference in this Act or in any other Act to a Customs Tariff or Customs Tariff alteration proposed in the Parliament shall be read as a reference to a Customs Tariff or Customs Tariff alteration proposed by a motion moved in the House of Representatives, and a Customs Tariff or Customs Tariff alteration proposed by a motion so moved shall be deemed to have been proposed in the Parliament at the time at which the motion was moved.”.

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 Section thirteen of the Principal Act is repealed and the following section inserted in its stead:—

“13.—(1.) The Customs shall have a seal, called the Customs Seal, the design of which shall be determined by the Minister. Customs Seal.

“(2.) The design so determined shall include—

(a) the Coat of Arms of the Commonwealth, that is to say, the armorial ensigns and supporters granted to the Commonwealth by Royal Warrant dated the nineteenth day of September, One thousand nine hundred and twelve; and

(b) the words ‘Australia—H.M. Customs’.

“(3.) The Customs Seal shall be kept at such place, and in the custody of such person, as the Minister directs.

“(4.) The Customs Seal shall be used as directed by the Minister.

“(5.) The Comptroller, the Collector of Customs for a State and the principal officer of Customs doing duty in the Northern Territory shall each have in his custody a stamp, called a Customs stamp, the design of which shall, as nearly as practicable, be the same as the design of the Customs Seal with the addition of—

- (a) in the case of the stamp in the custody of the Comptroller—the words ‘ Australian Capital Territory ’;
- (b) in the case of the stamp in the custody of a Collector of Customs for a State—the name of the State; and
- (c) in the case of the stamp in the custody of the principal officer of Customs doing duty in the Northern Territory—the words ‘ Northern Territory ’.

“(6.) A Customs stamp shall be used as provided by this Act.

“(7.) All courts (whether exercising federal jurisdiction or not) and all persons acting judicially shall take judicial notice of the impression of the Customs Seal, or of the mark of a Customs stamp, on a document or a copy of a document and, in the absence of proof to the contrary, shall presume that the impression or mark, as the case may be, was made by proper authority.”.

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

“25. Declarations under this Act may be made before the Minister, an officer of Customs or a Justice.”.

Persons before whom declarations may be made.

Entry of goods.

7. Section thirty-seven of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-sections:—

“(1.) Subject to the next succeeding sub-section, an entry in respect of goods shall be made by the delivery to a Collector of an entry specifying the goods and, on the delivery of the entry, the goods shall, for the purposes of this Act, be deemed to be entered.

“(1A.) Where an entry in respect of goods is delivered to a Collector at a port or airport before the arrival at the port or airport of a ship or aircraft carrying the goods, then, for the purposes of this Act, the entry shall be deemed to be made, and the goods shall be deemed to be entered, on the arrival of the ship or aircraft at the port or airport.”.

Prohibition of the importation of goods.

8.—(1.) Section fifty of the Principal Act is amended—

- (a) by adding at the end of paragraph (a) of sub-section (3.) the word “ and ”;

(b) by omitting from paragraph (b) of sub-section (3.) the word "and";

(c) by omitting paragraph (c) of sub-section (3.); and

(d) by adding at the end thereof the following sub-section:—

"(4.) Where a licence or permission granted, after the commencement of this sub-section, to a person under the regulations is subject to a condition or requirement to be complied with by that person, that person shall comply with the condition or requirement.

Penalty: Five hundred pounds."

(2.) The amendment effected by paragraph (c) of the last preceding sub-section does not affect a security that was given under regulations made under section fifty of the *Customs Act* 1901–1952, or under that Act as amended at any time, and was in force immediately before the commencement of this section.

9. Section sixty of the Principal Act is amended by omitting the words "the boarding station" (wherever occurring) and inserting in their stead the words "a boarding station".

Boarding stations.

10. Section sixty-two of the Principal Act is amended by inserting after the word "shall" the words ", subject to any direction given under section two hundred and seventy-five A of this Act,".

Ships to come quickly to place of unloading.

11. Section one hundred and eight of the Principal Act is repealed.

Continuation of existing warehouses.

12.—(1.) Section one hundred and nineteen of the Principal Act is amended—

Requisites for obtaining clearance.

(a) by omitting from paragraph (a) of sub-section (1.) the words "in duplicate" and inserting in their stead the words "in accordance with the prescribed form"; and

(b) by omitting from sub-section (2.) the words "an outward Manifest and Certificate of Clearance" and inserting in their stead the words "a Certificate of Clearance".

(2.) A regulation prescribing a form of Outward Manifest in force, or purporting to be in force, immediately before the commencement of this section is, and shall be deemed always to have been, as valid and effectual as if made under the Principal Act as amended by this section.

13. Section one hundred and twenty-three of the Principal Act is amended by omitting the words "the boarding station" (wherever occurring) and inserting in their stead the words "a boarding station".

Ship to bring to and aircraft to stop at boarding stations.

14.—(1.) Section one hundred and twenty-nine of the Principal Act is repealed and the following section inserted in its stead:—

Exemption of certain stores from duty.

“ 129. Except as prescribed, ships’ stores or aircraft’s stores used by the passengers or crew, or for the service, of a ship or aircraft are not liable to duties of Customs.”.

(2.) At any time after this Act receives the Royal Assent regulations may be made under the Principal Act as amended by this Act for the purposes of the section inserted in the Principal Act by the last preceding sub-section, but regulations so made do not have any force or effect until that sub-section comes into operation.

Payment of duty on ships’ and aircraft’s stores.

15. Section one hundred and thirty of the Principal Act is amended by omitting the words “ being ships’ stores and aircraft’s stores which are specified in the regulations as being stores to which the last preceding section does not apply ” and inserting in their stead the words “ not being ships’ stores or aircraft’s stores that, by virtue of the last preceding section, are not liable to duties of Customs ”.

16. After section one hundred and thirty A of the Principal Act the following section is inserted in Part VII.:—

Coasting ships and aircraft not covered by this Part.

“ 130B. In this Part—

‘ ship ’ does not include a coasting ship;

‘ aircraft ’ does not include a coasting aircraft.”.

17. Section one hundred and thirty-two of the Principal Act is repealed and the following section inserted in its stead:—

Rate of import duty.

“ 132.—(1.) Subject to this section, the rate of any import duty payable on goods is the rate of the duty in force when the goods are entered for home consumption.

“ (2.) Where goods are entered for home consumption more than once before import duty is paid on them, the rate at which the import duty is payable is the rate of the duty in force when the goods were first entered for home consumption.

“ (3.) For the purposes of this section, where an entry for home consumption in respect of goods is withdrawn under subsection (2.) of section thirty-seven of this Act and the goods are subsequently entered for warehousing or for removal to a specified place, the entry for home consumption shall be disregarded.”.

18. After section one hundred and sixty-two of the Principal Act the following section is inserted:—

Delivery of goods on the giving of a general security or undertaking for payment of duty.

“ 162A.—(1.) The regulations may provide that—

(a) goods of a specified class;

- (b) goods imported by persons of a specified class;
- (c) goods of a specified class imported by persons of a specified class; or
- (d) goods imported for a specified purpose,

may, in accordance with this section, be brought into Australia on a temporary basis without payment of duty.

“(2.) The Comptroller may accept a security given by a person for the payment of, or an undertaking by a person to pay, any duty that may become payable on goods to which the security or undertaking relates, being goods in relation to which regulations under the last preceding sub-section apply, that may be imported after a particular date or during a particular period and, where the Comptroller has accepted such security or undertaking, a Collector may grant to a person who imports goods to which the security or undertaking relates permission to take delivery of those goods without payment of duty.

“(3.) Goods delivered under this section shall, for the purposes of this Act, be deemed to be entered for home consumption on being so delivered.

“(4.) The regulations may prohibit a person to whom goods are delivered under this section from dealing with the goods in a manner, or in a manner other than a manner, specified in the regulations, or from so dealing with the goods except with the consent of the Comptroller.

“(5.) Duty is not payable on goods delivered under this section unless—

- (a) the goods have been dealt with in contravention of the regulations; or
- (b) the goods are not exported within such period, not exceeding twelve months, after the date on which the goods were imported as is notified to the person who imported the goods by the Collector when he grants permission to take delivery of the goods, or within such further period as the Minister, on the application of the person who imported the goods and of the person who gave the security or undertaking with respect to the goods, allows.

“(6.) A Collector may give permission for goods delivered under this section to be taken on board a ship or aircraft for export and, on permission being so given, the goods shall, for the purposes of this Act, be deemed to be entered for export.

“(7.) Where security under this section is given by way of a payment of money or a deposit of an instrument transferable by delivery, the money shall not be repaid or the instrument shall not be returned, as the case may be, until no duty is, or may become, payable on any goods to which the security relates that have been imported.

“(8.) Where goods have been dealt with in contravention of the regulations or goods are not exported from Australia within the period notified under paragraph (b) of sub-section (5.) of this section or within such further period as is allowed by the Minister under that paragraph, a security in respect of the goods may be enforced according to its tenor or, where an undertaking to pay the amount of the duty on the goods has been given, that amount may be recovered at any time in a court of competent jurisdiction by proceedings in the name of the Comptroller, a Collector of Customs for a State or the principal officer of Customs doing duty in the Northern Territory.”.

Dispute as to amount or rate of duty.

19. Section one hundred and sixty-seven of the Principal Act is amended—

- (a) by omitting the words “proposed Tariff or Tariff alteration” (wherever occurring) and inserting in their stead the words “Customs Tariff or Customs Tariff alteration proposed in the Parliament”; and
- (b) by omitting sub-section (6.).

20.—(1.) Section one hundred and ninety-nine of the Principal Act is repealed and the following section inserted in its stead:—

Customs Warrants.

“199.—(1.) The Comptroller, a Collector of Customs for a State or the principal officer of Customs doing duty in the Northern Territory, may issue to any officer of Customs or officer of police a Customs Warrant, in accordance with the form in Schedule IV. to this Act, marked with a Customs stamp.

“(2.) A Customs Warrant issued under the last preceding sub-section remains in force until the expiration of the period specified in the Warrant or until the Warrant is revoked, whichever first occurs.

“(3.) A Customs Warrant issued by a Collector of Customs for a State has force only in the State and a Customs Warrant issued by the principal officer of Customs doing duty in the Northern Territory has force only in the Northern Territory.”.

(2.) A Customs Warrant granted under section one hundred and ninety-nine of the Principal Act and in force immediately before the commencement of this section—

- (a) continues in force, but may be revoked, as if it had been issued under the section inserted in the Principal Act by the last preceding sub-section; and
- (b) shall, for the purposes of the Principal Act as amended by sections five, twenty-one and thirty-one of this Act, be deemed to be in accordance with the form referred to in the section inserted in the Principal Act by the last preceding sub-section.

21. Section two hundred and five of the Principal Act is amended—

Notice to be given of goods seized.

(a) by omitting the words “the Collector at the nearest port” and inserting in their stead the words “an appropriate officer”; and

(b) by adding at the end thereof the following sub-section:—

“ (2.) In this section, ‘appropriate officer’ means—

(a) where the seizure occurred in the Australian Capital Territory—the Comptroller;

(b) where the seizure occurred in a State—the Collector of Customs for the State; or

(c) where the seizure occurred in the Northern Territory—the principal officer of Customs doing duty in the Northern Territory,

and includes the principal officer of Customs (if any) doing duty at the place where the seizure occurred.”.

22.—(1.) Section two hundred and fourteen of the Principal Act is amended—

Production of documents, &c., in cases of seizure.

(a) by omitting sub-section (2.) and inserting in its stead the following sub-sections:—

“ (2.) For the purposes of this section, the Comptroller, a Collector of Customs for a State or the principal officer of Customs doing duty in the Northern Territory may issue to any officer of Customs or officer of police a Customs Warrant, in accordance with the form in Schedule V. to this Act, marked with a Customs stamp.

“ (2A.) A Customs Warrant issued under the last preceding sub-section remains in force for one month after the date of the Warrant unless sooner revoked.

“ (2B.) A Customs Warrant issued by a Collector of Customs for a State has force only in the State and a Customs Warrant issued by the principal officer of Customs doing duty in the Northern Territory has force only in the Northern Territory.”; and

(b) by omitting from sub-section (3.) the word “ officer ” and inserting in its stead the words “ officer of Customs or officer of police ”.

(2.) A Customs Warrant issued under sub-section (2.) of section two hundred and fourteen of the Principal Act and in force immediately before the commencement of this section—

(a) continues in force, but may be revoked, as if it had been issued under sub-section (2.) inserted in section two hundred and fourteen of the Principal Act by the last preceding sub-section; and

(b) shall, for the purposes of the Principal Act as amended by sections five, twenty-three and thirty-two of this Act, be deemed to be in accordance with the form referred to in sub-section (2.) inserted in section two hundred and fourteen of the Principal Act by the last preceding sub-section.

Time for commencing action.

23. Section two hundred and twenty-six of the Principal Act is amended by omitting from sub-section (1.) the words "Tariff or Tariff alteration proposed in Parliament" and inserting in their stead the words "Customs Tariff or Customs Tariff alteration proposed in the Parliament".

Rescuing goods and assaulting officers.

24. Section two hundred and thirty-two A of the Principal Act is amended by omitting paragraph (b) and inserting in its stead the following paragraph:—

"(b) assaults, resists, molests, obstructs or endeavours to intimidate any officer, or any person assisting an officer, in the execution of his duty,".

Smuggling and unlawful importation and exportation.

25.—(1.) Section two hundred and thirty-three of the Principal Act is amended by omitting from sub-section (1.) the words "One hundred" and inserting in their stead the words "Five hundred".

(2.) The amendment effected by the last preceding sub-section does not apply in relation to a contravention of section two hundred and thirty-three of the Principal Act that occurred before the commencement of this section.

False oath or affirmation.

26. Section two hundred and thirty-five of the Principal Act is repealed.

27. Section two hundred and sixty-three of the Principal Act is repealed and the following section inserted in its stead:—

Parties may recover costs.

"263. In a Customs prosecution, whether commenced before or after the commencement of this section, a court may award costs against a party, and, where an amount of costs is awarded against a party other than the prosecutor, section two hundred and fifty-nine of this Act and any provision of a law of a State or Territory of the Commonwealth that, by virtue of an Act other than this Act, applies in relation to the recovery of pecuniary penalties under this Act apply in relation to the recovery of the amount of costs so awarded as if it were a pecuniary penalty adjudged to be paid by the party under this Act."

28. After section two hundred and sixty-eight of the Principal Act the following section is inserted:—

False statements on oath.

"268A.—(1.) A person who wilfully makes a false statement in evidence on oath at an inquiry held by the Minister under this Part is guilty of an offence against this section.

“ (2.) An offence against this section may be prosecuted either summarily or upon indictment but an offender is not liable to be punished more than once in respect of the same offence.

- “ (3.) The punishment for an offence against this section is—
- (a) if the offence is prosecuted summarily—a fine not exceeding One hundred pounds or imprisonment for a term not exceeding six months, or both; or
 - (b) if the offence is prosecuted upon indictment—imprisonment for a term not exceeding four years.”.

29.—(1.) Section two hundred and seventy-three EA of the Principal Act is amended by omitting from sub-section (1.) the words “ he intends ” and inserting in their stead the words “ it is intended ”.

Notification of proposals when House of Representatives is not sitting.

(2.) A Customs Tariff or a Customs Tariff alteration specified in a notice published under sub-section (1.) of section two hundred and seventy-three EA of the Principal Act before the date of commencement of this section, not being a Customs Tariff or a Customs Tariff alteration that was enacted before that date, shall, for the purposes of the Principal Act as amended by this section, be treated as if the notice were expressed in the terms provided for by sub-section (1.) of section two hundred and seventy-three EA of the Principal Act as amended by this section.

30. After section two hundred and seventy-five of the Principal Act the following section is inserted:—

“ 275A.—(1.) Where a Collector considers that it is desirable, for the purposes of the Customs, to hold a ship or aircraft at a boarding station, the Collector may, by notice in writing delivered to the master of the ship or the pilot of the aircraft before it leaves the boarding station, direct the master or pilot not to move the ship or aircraft from the boarding station until the master or pilot receives permission, in writing, from a Collector to do so.

Direction not to move a ship or aircraft from a boarding station.

“ (2.) A person shall not disobey a direction given to him, and in force, under this section.

Penalty: Five hundred pounds.

“ (3.) Where a direction not to move a ship or aircraft from a boarding station has been given under sub-section (1.) of this section—

- (a) the direction ceases to have any force or effect at the expiration of a period of three days after the day on which the direction is given; and
- (b) no further direction in respect of the ship or aircraft shall be given while the ship or aircraft remains at the boarding station.

“(4.) Where a Collector (not being the Comptroller, a Collector of Customs for a State or the principal officer of Customs doing duty in the Northern Territory) gives a direction under sub-section (1.) of this section not to move a ship or aircraft from a boarding station, the Collector shall forthwith notify—

- (a) where the boarding station is in the Australian Capital Territory—the Comptroller;
- (b) where the boarding station is in a State—the Collector of Customs for the State; or
- (c) where the boarding station is in the Northern Territory—the principal officer of Customs doing duty in the Northern Territory,

of the giving of the direction.

“(5.) Where—

- (a) a ship or aircraft is held at a boarding station by virtue of a direction given under sub-section (1.) of this section; and
- (b) the Comptroller, the Collector of Customs for a State or the principal officer of Customs doing duty in the Northern Territory is satisfied that no purpose of the Customs is served by holding the ship or aircraft at the boarding station,

he shall forthwith revoke the direction.

“(6.) In proceedings for an offence under this section with respect to a direction, a certificate by a person referred to in the last preceding sub-section that he is satisfied that, up to the time the offence is alleged to have been committed—

- (a) the permission referred to in the direction had not been given; and
- (b) the direction had not been revoked,

is evidence of the matters as to which the person has certified that he is satisfied.”.

Schedule IV

31. Schedule IV. to the Principal Act is amended—

(a) by omitting the words—

“ This warrant shall remain in force for a period of _____ from the date thereof unless revoked before the expiration of that period.”

and inserting in their stead the words—

“ This warrant has force throughout _____ .

“ This warrant shall remain in force for a period of _____ from the date thereof unless revoked before the expiration of that period.”; and

(b) by omitting the word “(SEAL)” and inserting in its stead the words “(CUSTOMS STAMP)”.

32. Schedule V. to the Principal Act is amended—

Schedule V.

(a) by omitting the words—

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

and inserting in their stead the words—

“ This warrant has force throughout .

“ This warrant shall remain in force for a period of one month from the date thereof unless revoked before the expiration of that period.”; and

(b) by omitting the word “(SEAL)” and inserting in its stead the words “(CUSTOMS STAMP)”.
