

Customs (No. 2)

No. 134 of 1971

An Act to amend the *Customs Act* 1901-1971 in relation to
Narcotic Substances.

[Assented to 16 December 1971]

[Date of commencement 13 January 1972]

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* (No. 2) 1971.
- (2.) The *Customs Act* 1901-1968,* as amended by the *Customs Act* 1971,† is in this Act referred to as the Principal Act.
- (3.) Section 1 of the *Customs Act* 1971 is amended by omitting sub-section (3.).
- (4.) The Principal Act, as amended by this Act, may be cited as the *Customs Act* 1901-1971.

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; Nos. 42 and 111, 1960; No. 48, 1963; Nos. 29, 82 and 133, 1965; No. 28, 1966; No. 54, 1967; and Nos. 14 and 104, 1968.

† Act No. 12, 1971.

Interpretation.

2. Section 4 of the Principal Act is amended—

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

“ ‘ Cannabinoids ’ means cannabinoids of all kinds, other than a cannabinoid of a kind that can be obtained from a plant that is not a cannabis plant.

‘ Cannabis ’ means a cannabis plant, whether living or dead, and includes, in any form, any flowering or fruiting tops, leaves, seeds, stalks or any other part of a cannabis plant or cannabis plants and any mixture of parts of a cannabis plant or cannabis plants, but does not include cannabis resin or cannabis fibre.

‘ Cannabis fibre ’ means goods that consist wholly or substantially of fibre obtained from a cannabis plant or cannabis plants but do not contain any other substance or thing obtained from a cannabis plant.

‘ Cannabis plant ’ means a plant of the genus *Cannabis sativa*.

‘ Cannabis resin ’ means a substance that consists wholly or substantially of resin (whether crude, purified or in any other form) obtained from a cannabis plant or cannabis plants.”;

(b) by omitting from sub-section (1.) the definition of “ Narcotic drug ” and inserting in its stead the following definitions:—

“ ‘ Narcotic goods ’ means goods that consist of a narcotic substance.

‘ Narcotic substance ’ means a substance or thing the name of which is specified in column 1 of Schedule VI. to this Act or any other substance or thing for the time being declared by the regulations to be a narcotic substance.”;

(c) by inserting in sub-section (1.), after the definition of “ This Act ”, the following definition:—

“ ‘ Trafficable quantity ’, in relation to a narcotic substance, means—

(a) where the name of the substance is specified in column 1 of Schedule VI. to this Act—the quantity that is specified in column 2 of that Schedule opposite to the name of the substance; and

(b) where the substance is for the time being declared by the regulations to be a narcotic substance—the quantity that is prescribed by the regulations in relation to that substance.”; and

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

“ (4.) For the purposes of this Act, goods (including goods in the form of a preparation, mixture or solution) that do not consist of a narcotic substance but from which a narcotic substance can be obtained shall be deemed to consist of that substance, and

shall be deemed to consist of a quantity of that substance equal to the quantity of the substance that can be obtained from the goods.”.

3. Section 50 of the Principal Act is amended by omitting from sub-section (4.) the words “ narcotic drugs ” (wherever occurring) and inserting in their stead the words “ narcotic goods ”.

Prohibition of the importation of goods.

4. Section 231 of the Principal Act is amended by omitting the words “ narcotic drugs ” (wherever occurring) and inserting in their stead the words “ narcotic goods ”.

Assembly for unlawful purposes.

5. Section 233 of the Principal Act is amended—

(a) by adding at the end of sub-section (1.) the words:—

“ Penalty: One thousand dollars.”;

(b) by omitting sub-section (1A.); and

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

“ (5.) This section does not apply to, or in relation to, narcotic goods.”.

Smuggling and unlawful importation and exportation.

6. Section 233A of the Principal Act is amended by omitting from sub-section (2.) the words “ narcotic drugs ” (wherever occurring) and inserting in their stead the words “ narcotic goods ”.

Master not to use or allow use of ship for smuggling, &c.

7. Section 233B of the Principal Act is amended—

(a) by inserting in paragraph (b) of sub-section (1.), after the word “ applies ”, the words “ or exports, or attempts to export, from Australia any prohibited exports to which this section applies ”;

(b) by inserting after paragraph (c) of sub-section (1.) the following paragraph:—

“ (ca) without reasonable excuse (proof whereof shall lie upon him) has in his possession any prohibited imports to which this section applies which are reasonably suspected of having been imported into Australia in contravention of this Act, or ”;

(c) by inserting in paragraph (d) of sub-section (1.), after the word “ applies ”, the words “, or the exportation from Australia of any prohibited exports to which this section applies ”;

(d) by inserting in paragraph (e) of sub-section (1.), after the word “ applies ”, the words “ or the exportation or intended exportation from Australia of any prohibited exports to which this section applies ”; and

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

“ (1B.) On the prosecution of a person for an offence against sub-section (1.) of this section, being an offence to which paragraph (ca) of that sub-section applies, it is a defence if the person proves

Special provisions with respect to narcotic goods.

that the goods were not imported into Australia or were not imported into Australia in contravention of this Act.

“(1c.) Any defence for which provision is made under either of the last two preceding sub-sections in relation to an offence does not limit any defence otherwise available to the person charged.

“(2.) The prohibited imports to which this section applies are prohibited imports that are narcotic goods and the prohibited exports to which this section applies are prohibited exports that are narcotic goods.”.

Offences in
relation to
narcotic goods.

8. Section 235 of the Principal Act is amended—

(a) by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“(1.) Where—

(a) a person commits an offence against sub-section (4.) of section fifty, sub-section (1.) of section two hundred and thirty-one, section two hundred and thirty-three A or sub-section (1.) of section two hundred and thirty-three B of this Act; and

(b) the offence is an offence that is punishable as provided by this section,

the penalty applicable to the offence is, subject to sub-sections (3.) and (4.) of this section—

(c) where the offence is an offence against sub-section (1.) of section two hundred and thirty-three B of this Act and the Court is satisfied that the narcotic goods in relation to which the offence was committed consist of a quantity of a narcotic substance (being the narcotic substance specified in the information, complaint, declaration, claim or indictment as the narcotic substance of which the goods consist) that is not less than the trafficable quantity applicable to the substance—a fine not exceeding Four thousand dollars or imprisonment for a period not exceeding ten years, or both a fine not exceeding that amount and imprisonment for a period not exceeding that period; or

(d) in any other case—a fine not exceeding Two thousand dollars or imprisonment for a period not exceeding two years, or both a fine not exceeding that amount and imprisonment for a period not exceeding that period.”;

(b) by inserting in sub-section (3.), after the words “with the consent of the defendant”, the words “and of the prosecutor”;

(c) by omitting from sub-section (3.) the words “One thousand dollars” and inserting in their stead the words “Two thousand dollars”; and

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

“ (4.) Paragraph (c) of sub-section (1.) of this section does not apply in the case of an offence where the Court is satisfied that the offence was not committed by the person charged for any purpose related to the sale of, or other commercial dealing in, the narcotic goods in relation to which the offence was committed.”.

9. The Principal Act is amended by adding at the end thereof the following Schedule:— Schedule VI.

SCHEDULE VI.

Section 4.

Column 1 Name of substance	Column 2 Trafficable quantity
	Grammes
Acetorphine	0.5
Acetyldihydrocodeine	0.5
Acetylmethadol	0.5
Allyprodine	0.5
Alphacetylmethadol	2.0
Alphameprodine	0.05
Alphamethadol	0.05
Alphaprodine	6.0
Ampechloral	0.5
3-(2-Aminopropyl) indole	2.0
Amphetamine	0.5
Anileridine	6.0
Barbituric acid	50.0
Benzethidine	2.5
Benzylmorphine	1.5
Betacetylmethadol	1.5
Betameprodine	1.5
Betamethadol	1.5
Betaprodine	1.25
Beztramide	1.25
Bufotenine	0.7
Cannabinoids	0.1
Cannabis	25.0
Cannabis resin	5.0
Chlorphentermine	0.5
Clonitazene	1.25
Cocaine	0.5
Codeine	3.0
Codeine-N-oxide	3.0
Codoxime	3.0
Desomorphine	0.5
Diacetylmorphine	0.5
Diampromide	1.0
Diethylpropion	1.25
Diethylthiambutene	1.0
N,N-Diethyltryptamine	3.0
Dihydrocodeine	3.0
Dihydromorphine	3.0
Dimenoxadol	3.0
Dimepheptanol	3.0
2, 5-Dimethoxy-4-methylamphetamine	0.5
Dimethylthiambutene	5.0
N,N-Dimethyltryptamine	3.0
Dioxaphetyl butyrate	0.7
Diphenoxylate	0.5
Dipipanone	2.5
Ecgonine	2.5
Ethylmethylthiambutene	2.5
Ethylmorphine	0.5

SCHEDULE VI—continued

Column 1 Name of substance	Column 2 Trafficable quantity
	Grammes
Etonitazene	1.5
Etorphine	1.5
Etoperidine	1.5
Fentanyl	0.005
Furethidine	0.3
Harmaline	1.25
Harmine	3.0
Hydrocodone	0.5
Hydromorphenol	0.5
Hydromorphone	0.1
Hydroxyamphetamine	0.5
Hydroxypethidine	1.0
Ketobemidone	0.5
Levorphanol	0.25
Lysergic acid	0.001
Lysergide	0.001
Mescaline	7.5
Metazocine	7.0
Methadone	0.5
Methorphan	0.75
Methylamphetamine	0.5
Methyldesorphine	0.5
Methyldihydromorphone	0.5
Methylphenidate	0.5
Metopon	0.3
Moramide	0.5
Morpheridine	0.3
Morphine	0.5
Morphine-N-oxide	0.5
Myrophine	5.0
Nicocodine	0.5
Nicodicodine	0.5
Nicomorphone	0.5
Noracymethadol	0.5
Norcodeine	0.5
Norlevorphanol	0.5
Normethadone	1.0
Normorphone	20.0
Norpipanone	10.0
Opium	5.0
Oxycodone	1.5
Oxymorphone	0.5
Pethidine	2.5
Phenadoxone	2.5
Phenampromide	15.0
Phenazocine	0.25
Phendimetrazine	1.25
Phenmetrazine	1.25
Phenomorphane	1.25
Phenoperidine	0.25
Pholcodine	1.0
Piminodine	2.5
Pipradrol	0.3
Piritramide	0.3
Proheptazine	0.3
Properidine	25.0
Psilocin	0.1
Psilocybin	0.1
Thebacon	0.5
Thebaine	0.75
Trimeperidine	3.0