



Customs Amendment (Reducing Business Compliance Burden) Act 2012

No. 37, 2012

**An Act to amend the *Customs Act 1901*, and for
other purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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No. 37, 2012

An Act to amend the *Customs Act 1901*, and for other purposes

[Assented to 15 April 2012]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Customs Amendment (Reducing Business Compliance Burden) Act 2012*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	15 April 2012
2. Schedule 1, items 1 to 10	The day this Act receives the Royal Assent.	15 April 2012
3. Schedule 1, items 11 and 12	Immediately after the commencement of items 26 and 27 of Schedule 1 to the <i>Excise Amendment (Reducing Business Compliance Burden) Act 2012</i> .	15 April 2012
4. Schedule 1, items 13 to 15	The day this Act receives the Royal Assent.	15 April 2012

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Settling customs duties

Customs Act 1901

1 Subsection 4(1)

Insert:

gaseous fuel means compressed natural gas, liquefied natural gas or liquefied petroleum gas.

2 Subsection 4(1)

Insert:

like customable goods means goods that are prescribed by the regulations for the purposes of this definition.

3 Subsection 4(1)

Insert:

small business entity has the meaning given by section 328-110 (other than subsection 328-110(4)) of the *Income Tax Assessment Act 1997*.

4 Section 69

Repeal the section, substitute:

69 Like customable goods and excise-equivalent goods

- (1) A person may apply to the Collector for permission to deliver into home consumption like customable goods or excise equivalent goods:
 - (a) of a kind specified in the application; and
 - (b) to which section 68 applies;without entering them for that purpose:
 - (c) in respect of a recurring 7 day period; or
 - (d) in respect of a calendar month if:
 - (i) the person is a small business entity or included in a class prescribed by the regulations; or

- (ii) the like customable goods or excise-equivalent goods to be delivered into home consumption are of a kind prescribed by the regulations for the purposes of this subparagraph.
- (2) If a person applies in respect of a recurring 7 day period, the person may specify in the application the 7 day period that the person wishes to use.
- (3) Despite the definition of *days* in section 4, Sundays and public holidays are counted as days for the purpose of determining a recurring 7 day period. This subsection does not affect the operation of section 36 of the *Acts Interpretation Act 1901*.
- (4) An application must be made in writing in an approved form.
- (5) The Collector may, on receiving an application under subsection (1) or advice under subsection (13) or (14), by notice in writing:
 - (a) give permission to the person to deliver into home consumption, from a place specified in the permission:
 - (i) like customable goods to which section 68 applies; or
 - (ii) excise-equivalent goods to which section 68 applies; to which the application relates without entering them for that purpose; or
 - (b) refuse to give such a permission and set out in the notice the reasons for so refusing.
- (6) If a permission is to apply in respect of a 7 day period, the notice must specify:
 - (a) the 7 day period for which permission is given; and
 - (b) the first day of the 7 day period from which permission is given.
- (7) If a permission is to apply in respect of a calendar month, the notice must specify the calendar month from which permission is given.
- (8) A permission given under subsection (4) in respect of like customable goods or excise-equivalent goods is subject to the following conditions:

- (a) if a person's permission applies in respect of a 7 day period and specifies goods other than gaseous fuel—the condition that, to the extent that the permission relates to goods other than gaseous fuel, the person give the Collector a return, by way of a document or electronically, on the first day following the end of each 7 day period, providing particulars in accordance with section 71K or 71L in relation to the goods that have, during the period to which the return relates, been delivered into home consumption under the permission;
 - (b) if a person's permission applies in respect of a 7 day period and specifies gaseous fuel—the condition that, to the extent that the permission relates to gaseous fuel, the person give the Collector a return, by way of a document or electronically, on or before the seventh day following the end of each 7 day period, providing particulars in accordance with section 71K or 71L in relation to the gaseous fuel that has, during the period to which the return relates, been delivered into home consumption under the permission;
 - (c) if a person is a small business entity and the person's permission applies in respect of a calendar month—the condition that the person give the Collector a return, by way of a document or electronically, on or before the 21st day of each calendar month, providing particulars in accordance with section 71K or 71L in relation to the goods that have, during the previous calendar month, been delivered into home consumption under the permission;
 - (d) if a person's permission applies in respect of a calendar month and the person is included in a class mentioned in subparagraph (1)(d)(i) or has permission to enter like customizable goods or excise-equivalent goods of a kind prescribed by the regulations for the purposes of subparagraph (1)(d)(ii)—any condition prescribed by the regulations;
 - (e) if a person ceases to be a small business entity—the condition that the person advise the Collector, in writing, of that fact as soon as practicable after ceasing to be a small business entity;
 - (f) if a person ceases to be included in a class mentioned in subparagraph (1)(d)(i)—the condition that the person advise the Collector, in writing, of that fact as soon as practicable after ceasing to be included in that class;
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- (g) in any case—the condition that on or after the goods are imported and before they are delivered into home consumption, the goods to which the permission relates must have been or must be entered for warehousing;
- (h) the condition that, at the time when each return is given to the Collector, the person pay any duty owing at the rate applicable when the goods were delivered into home consumption;
- (i) any other condition, specified in the permission, that the Collector considers appropriate.

Note: Paragraphs (8)(a), (b), (c) and (d)—see also subsection (9).

- (9) Despite paragraphs (8)(a), (b), (c) and (d), the Collector may determine different conditions for giving the Collector a return if subsection (13) or (14) applies.
- (10) A person to whom a permission is given under subsection (5) must comply with any conditions to which the permission is subject.

Penalty: 50 penalty units.

- (11) Subsection (10) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

- (12) If the Collector is satisfied that a person to whom a permission has been given under subsection (5) has failed to comply with any condition to which the permission is subject, the officer may, at any time while the permission remains in force, by notice in writing, revoke the permission. The notice must set out the reasons for the revocation.

- (13) If:

- (a) a person is a small business entity or included in a class mentioned in subparagraph (1)(d)(i); and
- (b) the person's permission applies in respect of a calendar month; and
- (c) the person advises the Collector, in writing, that the person ceases to be a small business entity or included in a class mentioned in subparagraph (1)(d)(i);

the Collector must, by notice in writing:

- (d) revoke the permission with effect from a specified day; and

- (e) give another permission under subsection (5) in respect of a 7 day period.
- (14) If a person advises the Collector, in writing, that the person wishes to change the 7 day period in respect of which their permission applies, the Collector may, by notice in writing:
 - (a) revoke the permission with effect from a specified day; and
 - (b) give another permission under subsection (5) in respect of another period.
- (15) Subsections (12) to (14) do not, by implication, limit the application of subsections 33(3) and (3AA) of the *Acts Interpretation Act 1901*.

5 Subsections 71K(1), 71L(1) and (3)

Omit “subsection 69(5)”, substitute “subsection 69(8)”.

6 Section 103 (definition of *customable beverage*)

Omit “(within the meaning of section 69)”.

7 Section 103 (at the end of paragraph (b) of the definition of *customable beverage*)

Add “by the regulations for the purposes of this definition”.

8 Subsection 132AA(4) (table item 1)

Omit “69(5)(d)”, substitute “69(8)(h)”.

9 Subsection 234(2B)

Omit “subsection 69(5) or 70(7)”, substitute “subsection 69(8), subsection 70(7)”.

10 After paragraph 273GA(1)(aab)

Insert:

- (aab) a decision by an officer under section 69 to impose a condition on a permission given under that section;

Income Tax Assessment Act 1997

11 At the end of subsection 328-110(1)

Add:

Note 2: If you are a small business entity for an income year, you may apply under section 69 of the *Customs Act 1901* for permission to deliver like customizable goods or excise-equivalent goods into home consumption (without entering them for that purpose) in respect of a calendar month.

12 Subsection 328-110(4) (at the end of the note)

Add:

; (f) applying for permission under the *Customs Act 1901* to deliver like customizable goods or excise-equivalent goods for home consumption (without entering them for that purpose) in respect of a calendar month: see section 69 of that Act.

13 Subsection 995-1(1)

Insert:

excise-equivalent goods has the same meaning as in the *Customs Act 1901*.

14 Subsection 995-1(1)

Insert:

like customizable goods has the same meaning as in the *Customs Act 1901*.

15 Transitional provision

- (1) This item applies in respect of a person who, immediately before commencement, had permission under section 69 of the old law to deliver like customizable goods (specified in the permission) into home consumption without entering them for that purpose in respect of a particular recurring period.
- (2) The person is taken to have been given permission under subsection 69(5) of the new law to deliver those goods into home consumption without entering them for that purpose in respect of the same period.
- (3) To avoid doubt, a permission mentioned in subitem (2) is subject to section 69 of the new law.
- (4) In this item:
commencement means the day this item commences.

like customable goods has the meaning given by subsection 69(1) of the old law.

new law means the *Customs Act 1901*, as in force immediately after commencement.

old law means the *Customs Act 1901*, as in force immediately before commencement.

[Minister's second reading speech made in—
House of Representatives on 23 November 2011
Senate on 8 February 2012]

(243/11)