



Customs Amendment (Smuggled Tobacco) Act 2012

No. 146, 2012

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

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

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No. 146, 2012

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

[Assented to 6 November 2012]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Customs Amendment (Smuggled Tobacco) Act 2012*.

Schedule 1 Amendments

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2 Commencement

This Act commences on the day after this Act receives the Royal Assent.

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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Customs Act 1901

1 Subparagraph 210(1)(a)(iii)

Omit “or 233BABAC(1)”, substitute “, 233BABAC(1) or 233BABAD(1) or (2)”.

2 After section 233BABAC

Insert:

233BABAD Smuggling etc. tobacco products

- (1) A person commits an offence if:
 - (a) the person imports goods; and
 - (b) the goods are tobacco products; and
 - (c) the person imports the goods with the intention of defrauding the revenue.
- (2) A person commits an offence if:
 - (a) the person conveys, or has in the person’s possession, goods; and
 - (b) the goods are tobacco products; and
 - (c) the person knows that the goods were imported with intent to defraud the revenue.
- (3) In a prosecution for an offence against subsection (2), it is not necessary to prove the identity of the person who imported the goods.
- (4) An offence against subsection (1) or (2) is punishable on conviction by imprisonment for not more than 10 years, a fine not exceeding the amount worked out under subsection (5), or both.
- (5) For the purposes of subsection (4), the amount is:
 - (a) if the Court can determine the amount of the duty that would have been payable on the goods if the goods had been entered for home consumption on:

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- (i) if the day on which the offence was committed is known to the Court—that day; or
 - (ii) if that day is not known to the Court—the day on which the prosecution for the offence was instituted;
 - 5 times the amount of that duty; or
 - (b) otherwise—1,000 penalty units.
- (6) A person convicted or acquitted of an offence against subsection (1) or (2) in respect of particular conduct is not liable to proceedings under section 233 in respect of that conduct.
- (7) In this section:
- tobaccoproducts*** means goods classified to heading 2401, 2402 or 2403 of Schedule 3 to the *Customs Tariff Act 1995* (except goods classified to subheading 2402.90.00 or 2403.99.10 of that Schedule).

3 Application provisions

- (1) Subsection 233BABAD(1) of the *Customs Act 1901*, as inserted by this Act, applies in relation to imports of goods on or after the commencement of this item.
- (2) Subsection 233BABAD(2) of the *Customs Act 1901*, as inserted by this Act, applies in relation to goods that are conveyed, or goods that are in a person's possession, on or after the commencement of this item (whether the goods were imported before, on or after that commencement).

[Minister's second reading speech made in—
House of Representatives on 27 June 2012
Senate on 23 August 2012]