Customs Legislation Amendment Act (No. 1) 2002

Act No. 82 of 2002 as amended

This compilation was prepared on 30 March 2004

[This Act was amended by Act No. 136 of 2003 and Act No. 25 of 2004]

Amendment from Act No. 136 of 2003

[Schedule 1 (item 33) amended heading to Schedule 3 (item 5)
Schedule 1 (item 33) commenced on 5 January 2003]

Amendment from Act No. 25 of 2004

[Schedule 2 (item 27) amended subsection 2(1)
Schedule 2 (item 27) commenced on 10 October 2002]

Prepared by the Office of Legislative Drafting,
Attorney-General's Department, Canberra

Contents

1 Short title 1
2 Commencement 1
3 Schedule(s) 6
4 Application of certain amendments 7

Schedule 1—Harmonisation of Customs offences 8

Customs Act 1901 8

Schedule 2—The valuation of imported goods 17

Customs Act 1901 17

Schedule 3—International trade modernisation 18

Part 1—Reporting requirements 18

Customs Act 1901 18

Part 2—Importation of goods 20

A New Tax System (Goods and Services Tax) Act 1999 20

A New Tax System (Wine Equalisation Tax) Act 1999 20

Customs Act 1901 20

Part 3—Exportation of goods 24

Customs Act 1901 24

Part 4—Other amendments 29

Customs Act 1901 29

Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001 30

Schedule 4—Seizure of goods in the Protected Zone 35

Customs Act 1901 35

Schedule 5—Reporting re-mail items 41

Part 1—Amendments commencing first 41

Customs Act 1901 41

Part 2—Amendments commencing second 48

Customs Act 1901 48

Schedule 6—Passenger movement charge 49

Passenger Movement Charge Collection Act 1978 49

An Act to amend the law relating to customs, and for other purposes

[*Assented to 10 October 2002*]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Customs Legislation Amendment Act (No. 1) 2002*.

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	10 October 2002
2. Schedules 1 and 2	The day on which this Act receives the Royal Assent	10 October 2002
3. Schedule 3, items 1 to 5	The later of: (a) immediately after the commencement of item 118 of Schedule 3 to the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*; and (b) the day on which this Act receives the Royal Assent	

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
4. Schedule 3, items 6 and 7	The latest of: (a) immediately after the commencement of item 118 of Schedule 3 to the Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001; and (b) if the *Border Security Legislation Amendment Act 2002* has been enacted—immediately after the commencement of Part 1 of Schedule 6 to that Act; and (c) the day on which this Act receives the Royal Assent.	
5. Schedule 3, item 8	The later of: (a) immediately after the commencement of item 81 of Schedule 3 to the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*; and (b) the day on which this Act receives the Royal Assent	
6. Schedule 3, items 9 to 21	The later of: (a) immediately after the commencement of item 38 of Schedule 3 to the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*; and (b) the day on which this Act receives the Royal Assent	
7. Schedule 3, items 22 and 23	The later of: (a) immediately after the commencement of item 138 of Schedule 3 to the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*; and (b) the day on which this Act receives the Royal Assent	
8. Schedule 3, items 24 and 25	The day on which this Act receives the Royal Assent	10 October 2002

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
9. Schedule 3, item 26	The later of: (a) immediately after the commencement of item 38 of Schedule 3 to the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*; and (b) the day on which this Act receives the Royal Assent	
10. Schedule 3, item 27	The day on which this Act receives the Royal Assent	10 October 2002
11. Schedule 3, item 28	The later of: (a) immediately after the commencement of item 62 of Schedule 3 to the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*; and (b) the day on which this Act receives the Royal Assent	
12. Schedule 3, item 29	The day on which this Act receives the Royal Assent	10 October 2002
13. Schedule 3, items 30 to 43	The later of: (a) immediately after the commencement of item 62 of Schedule 3 to the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*; and (b) the day on which this Act receives the Royal Assent	
14. Schedule 3, item 44	The later of: (a) immediately after the commencement of item 17 of Schedule 3 to the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*; and (b) the day on which this Act receives the Royal Assent	

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
15. Schedule 3, items 45 to 47	The later of: (a) immediately after the commencement of item 97A of Schedule 3 to the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*; and (b) the day on which this Act receives the Royal Assent	
16. Schedule 3, item 48	The later of: (a) immediately after the commencement of item 5 of Schedule 1 to the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*; and (b) the day on which this Act receives the Royal Assent	10 October 2002 (paragraph (b) applies)
17. Schedule 3, item 49	The later of: (a) immediately after the commencement of item 1 of Schedule 3 to the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*; and (b) the day on which this Act receives the Royal Assent	
18. Schedule 3, items 50 and 51	The later of: (a) immediately after the commencement of item 13 of Schedule 1 to the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*; and (b) the day on which this Act receives the Royal Assent	10 October 2002 (paragraph (b) applies)
19. Schedule 3, items 52 to 54	The later of: (a) immediately after the commencement of item 5 of Schedule 2 to the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*; and (b) the day on which this Act receives the Royal Assent	10 October 2002 (paragraph (b) applies)

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
20. Schedule 3, item 55	The later of: (a) immediately after the commencement of item 101 of Schedule 3 to the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*; and (b) the day on which this Act receives the Royal Assent	
21. Schedule 3, items 56 to 65	The day on which this Act receives the Royal Assent	10 October 2002
22. Schedule 3, item 66	At the same time as the commencement of item 118 of Schedule 3 to the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*	
23. Schedule 3, items 67 and 68	Immediately before the commencement of item 27 of Schedule 3 to the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*	
24. Schedule 3, item 69	At the same time as the commencement of item 30 of Schedule 3 to the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*	
25. Schedule 3, items 70 and 71	At the same time as the commencement of item 82 of Schedule 3 to the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*	20 July 2001
26. Schedule 3, item 72	Immediately before the commencement of item 110 of Schedule 3 to the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*	

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
27. Schedule 3, item 73	Immediately before the commencement of item 117 of Schedule 3 to the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*	
28. Schedule 4	The day on which this Act receives the Royal Assent	10 October 2002
29. Schedule 5, Part 1	A single day to be fixed by Proclamation, subject to subsection (3)	10 April 2003
30. Schedule 5, Part 2	Immediately after the commencement of item 118 of Schedule 3 to the *Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001*	
31. Schedule 6	The day on which this Act receives the Royal Assent	10 October 2002

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

(2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.

(3) If a provision covered by item 29 of the table does not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

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.

4 Application of certain amendments

(1) Subject to subsection (2), each amendment made by Schedule 1 to this Act applies to acts and omissions that take place after the amendment commences.

(2) If an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment in that Schedule commences, the amendment does not apply to the alleged act or omission.

Schedule 1—Harmonisation of Customs offences

Customs Act 1901

1 Subsection 5A(1) (penalty)

Omit “$50,000”, substitute “500 penalty units”.

2 Subsection 5A(3) (penalty)

Omit “$10,000”, substitute “100 penalty units”.

3 Subsection 5B(1) (penalty)

Omit “$50,000”, substitute “500 penalty units”.

4 Subsection 5B(3) (penalty)

Omit “$10,000”, substitute “100 penalty units”.

5 Section 19 (penalty)

Omit “$100”, substitute “1 penalty unit”.

7 Subsection 20(3) (penalty)

Omit “$1,000”, substitute “10 penalty units”.

8 Subsection 20(7) (penalty)

Omit “$500”, substitute “5 penalty units”.

9 Subsection 33(1) (penalty)

Omit “$50,000”, substitute “500 penalty units”.

10 Subsection 33(2)

Omit “$50,000”, substitute “500 penalty units”.

11 Subsection 33A(1) (penalty)

Omit “$50,000”, substitute “500 penalty units”.

12 Subsection 33A(3) (penalty)

Omit “$10,000”, substitute “100 penalty units”.

13 Subsection 33B(1) (penalty)

Omit “$50,000”, substitute “500 penalty units”.

14 Subsection 33B(3) (penalty)

Omit “$10,000”, substitute “100 penalty units”.

15 Subsection 58(1) (penalty)

Omit “$50,000”, substitute “500 penalty units”.

16 Subsection 58(3) (penalty)

Omit “$10,000”, substitute “100 penalty units”.

17 Subsection 58A(8) (penalty)

Omit “$10,000”, substitute “100 penalty units”.

18 Subsection 58B(9)

Omit “$10,000”, substitute “100 penalty units”.

19 Subsections 60(1), (2) and (3) (penalty)

Omit “$10,000”, substitute “100 penalty units”.

20 Sections 61, 62 and 63 (penalty)

Omit “$5,000”, substitute “50 penalty units”.

21 Subsections 64(1) and (2) (penalty)

Omit “$500”, substitute “5 penalty units”.

22 At the end of section 64

Add:

(5) Subsections (1) and (2) are offences of strict liability.

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

23 Subsections 64AA(1) and (1B) (penalty)

Omit “$500”, substitute “5 penalty units”.

24 At the end of section 64AA

Add:

(4) Subsections (1) and (1B) are offences of strict liability.

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

25 Subsections 64AC(2) and (2A) (penalty)

Omit “$500”, substitute “5 penalty units”.

26 At the end of section 64AC

Add:

(5) Subsections (2) and (2A) are offences of strict liability.

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

27 Subsections 64AE(1) and (2) (penalty)

Omit “$500”, substitute “5 penalty units”.

28 Subsection 64A(1) (penalty)

Omit “$2,000”, substitute “20 penalty units”.

29 Subsections 64A(2) and (3) (penalty)

Omit “$1,000”, substitute “10 penalty units”.

30 Subsections 65(1) and (2) (penalty)

Omit “$5,000”, substitute “50 penalty units”.

31 Sections 66 and 67 (penalty)

Omit “$2,000”, substitute “20 penalty units”.

32 Subsection 67ES(4)

Omit “, without reasonable excuse,”.

33 After subsection 67ES(4)

Insert:

(4A) Subsection (4) does not apply in relation to a failure to comply with subsection (2) or (3) if the person has a reasonable excuse for the failure.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4A) (see subsection 13.3(3) of the *Criminal Code*).

34 Subsection 67ES(6)

Omit “knowingly or recklessly”, substitute “intentionally”.

37 Subsection 69(5) (penalty)

Omit “$5,000”, substitute “50 penalty units”.

38 After subsection 69(5)

Insert:

(5A) Subsection (5) is an offence of strict liability.

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

39 Subsection 70(7) (penalty)

Omit “$5,000”, substitute “50 penalty units”.

40 Subsection 71E(3A) (penalty)

Omit “$50,000”, substitute “500 penalty units”.

41 Section 71G (penalty)

Omit “$1,500”, substitute “15 penalty units”.

42 At the end of section 71G

Add:

(2) Subsection (1) is an offence of strict liability.

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

43 Subsections 73(1) and (2) and 74(1) (penalty)

Omit “$25,000”, substitute “250 penalty units”.

44 After subsection 74(1)

Insert:

(1A) Subsection (1) is an offence of strict liability.

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

45 Subsection 77D(5)

Omit “without reasonable excuse”.

46 After subsection 77D(5)

Insert:

(5A) Subsection (5) does not apply if a person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5A) (see subsection 13.3(3) of the *Criminal Code*).

(5B) Subsection (5) is an offence of strict liability.

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

47 Subsection 77E(5)

Omit “without reasonable excuse”.

48 After subsection 77E(5)

Insert:

(5A) Subsection (5) does not apply if a person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5A) (see subsection 13.3(3) of the *Criminal Code*).

(5B) Subsection (5) is an offence of strict liability.

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

49 Paragraph 81(3)(b)

Omit “$5,000”, substitute “50 penalty units”.

50 Subsection 86(6) (penalty)

Omit “$5,000”, substitute “50 penalty units”.

51 Subsection 87(7) (penalty)

Omit “$100”, substitute “1 penalty unit”.

52 Subsection 90(1) (penalty)

Omit “$1,000”, substitute “10 penalty units”.

53 Subsections 96A(11) and 96B(11)

Omit “$5,000”, substitute “50 penalty units”.

54 Subsection 100(2) (penalty)

Omit “$1,000”, substitute “10 penalty units”.

55 Section 101 (penalty)

Omit “$1,000”, substitute “10 penalty units”.

56 Subsection 113(1) (penalty)

Omit “$5,000”, substitute “50 penalty units”.

57 Subsection 114D(1) (penalty)

Omit “$1,000”, substitute “10 penalty units”.

58 Section 115 (penalty)

Omit “$10,000”, substitute “100 penalty units”.

59 Subsection 116(2) (penalty)

Omit “$5,000”, substitute “50 penalty units”.

60 After subsection 116(2)

Insert:

(2A) Subsection (2) is an offence of strict liability.

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

61 Section 118 (penalty)

Omit “$50,000”, substitute “500 penalty units”.

62 Subsection 122D(1) (penalty)

Omit “$500”, substitute “5 penalty units”.

63 After subsection 122D(1)

Insert:

(1A) Subsection (1) is an offence of strict liability.

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

64 Subsections 123(1) and (2) (penalty)

Omit “$500”, substitute “5 penalty units”.

65 Section 124 (penalty)

Omit “$10,000”, substitute “100 penalty units”.

66 Section 125 (penalty)

Omit “$25,000”, substitute “250 penalty units”.

67 Section 126C (penalty)

Omit “$1,000”, substitute “10 penalty units”.

68 Section 127 (penalty)

Omit “$2,000”, substitute “20 penalty units”.

69 Subsections 129(3) and 130B(3)

Omit “$2,000”, substitute “20 penalty units”.

70 Subsection 181(5)

Omit “$1,000”, substitute “10 penalty units”.

71 Section 183P (penalty)

Omit “$1,000”, substitute “10 penalty units”.

72 Subsection 188(1) (penalty)

Omit “$500”, substitute “5 penalty units”.

73 Sections 191 and 192 (penalty)

Omit “$5,000”, substitute “50 penalty units”.

74 Subsections 195(2) and 196C(2) (penalty)

Omit “$1,000”, substitute “10 penalty units”.

75 Subsections 210(2) and 214AA(3) (penalty)

Omit “$1,000”, substitute “10 penalty units”.

76 Subsections 214B(3) and (9) (penalty)

Omit “$1,000”, substitute “10 penalty units”.

77 Section 232A

Omit “$500”, substitute “5 penalty units”.

78 Subsections 233AB(1) and (2)

Omit “$100,000” (wherever occurring), substitute “1,000 penalty units”.

79 Subsections 233BAA(4) and (5) (penalty)

Omit “$100,000”, substitute “1,000 penalty units”.

80 Subsections 233BAB(5) and (6) (penalty)

Omit “$250,000”, substitute “2,500 penalty units”.

81 Subparagraph 234(2)(a)(ii)

Omit “$50,000”, substitute “500 penalty units”.

82 Subsection 234(3)

Omit “$5,000”, substitute “50 penalty units”.

83 Subsection 234(4) (the subsection (4) added by item 33 of Schedule 1 to the *Customs and Excise Legislation Amendment Act (No. 1) 1997*)

Omit “$5,000”, substitute “50 penalty units”.

84 Subsection 234(4) (the subsection (4) added by item 2 of Schedule 1 to the *Customs and Excise Legislation Amendment Act (No. 2) 1997*)

Renumber as (4A).

85 Subsection 234(8)

Omit “(4) to (7)”, substitute “(4A) to (7)”

86 Subsection 234A(1) (penalty)

Omit “$1,000”, substitute “10 penalty units”.

87 After subsection 234A(1)

Insert:

(1AA) Subsection (1) is an offence of strict liability.

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

88 Subsection 234AB(3) (penalty)

Omit “$1,000”, substitute “10 penalty units”.

89 Subsection 234AC(3) (penalty)

Omit “$5,000”, substitute “50 penalty units”.

90 Subsection 235(1)

Omit “$2,000”, substitute “20 penalty units”.

91 Paragraph 235(2)(c)

Omit “$750,000”, substitute “7,500 penalty units”.

92 Subparagraph 235(2)(d)(i)

Omit “$500,000”, substitute “5,000 penalty units”.

93 Subparagraph 235(2)(d)(ii)

Omit “$250,000”, substitute “2,500 penalty units”.

94 Paragraph 235(2)(e)

Omit “$2,000”, substitute “20 penalty units”.

95 Subsection 235(7)

Omit “$2,000”, substitute “20 penalty units”.

96 Subsection 245(2)

Omit “$40,000” (twice occurring), substitute “400 penalty units”.

97 Subsection 245(4)

Omit “$20,000” (twice occurring), substitute “200 penalty units”.

98 Subsection 275A(2) (penalty)

Omit “$10,000”, substitute “100 penalty units”.

Schedule 2—The valuation of imported goods

Customs Act 1901

1 Subsection 154(1) (definition of *price*)

Omit “value unrelated matters”, substitute “rebates”.

2 Subsection 154(1)

Insert:

> ***rebate***, in relation to goods the subject of a contract for sale, means any rebate of, or other decrease in, the amount that would constitute the price of the goods other than such a rebate or decrease the benefit of which has been received when that amount is being determined.

3 Subsection 154(1) (definition of *value unrelated matter*)

Repeal the definition.

4 Transitional

Although this Schedule amends the *Customs Act 1901*, Division 2 of Part VIII of that Act, as in force immediately before this item commences, continues to apply in respect of the valuation of goods that are entered for home consumption before that time, whether or not the goods are valued before that time, as if the amendments had not been made.

Schedule 3—International trade modernisation

Part 1—Reporting requirements

Customs Act 1901

1 Subsection 64AAC(4)

After “the ship”, insert “or aircraft”.

2 After subsection 64AB(4)

Insert:

(4A) A documentary cargo report must:

(a) be in writing; and

(b) be in an approved form; and

(c) be communicated to Customs by sending or giving it to an officer doing duty in relation to the reporting of ships or aircraft at the port or airport at which the ship or aircraft is expected to arrive; and

(d) contain such information as is required by the form; and

(e) be signed in a manner specified in the form.

(4B) An electronic cargo report must communicate such information as is set out in an approved statement.

3 Subsection 64ABAA(4)

Omit “to the operator of the aircraft or ship, or to a cargo reporter,”.

4 Subsection 64ABAB(4)

Omit “by the operator of the ship or aircraft, or by a cargo reporter, under section 71E”, substitute “, under a permission given under section 71E,”.

5 After section 64ACE

Insert:

64ADAA Requirements for communicating to Customs electronically

A communication that is required or permitted by this Subdivision to be made to Customs electronically must:

(a) be signed by the person who makes it (see paragraph 126DA(1)(c)); and

(b) otherwise meet the information technology requirements determined under section 126DA.

6 Subsection 64AE(1)

Repeal the subsection, substitute:

(1) The operator of a ship or aircraft to whom section 64, 64AA, 64AAA, 64AC, 64ACA or 64ACB applies must:

(a) answer questions asked by a Collector relating to the ship or aircraft or its cargo, crew, passengers, stores or voyage; and

(b) produce documents requested by the Collector relating to a matter referred to in paragraph (a), if the documents are in his or her possession or control at the time of the request.

Penalty: 5 penalty units.

7 Subsection 64AE(2)

Repeal the subsection, substitute:

(2) Each cargo reporter to whom section 64AB applies must:

(a) answer questions asked by a Collector relating to the goods he or she has arranged to be carried on the relevant ship or aircraft; and

(b) produce documents requested by the Collector relating to such goods, if the documents are in his or her possession or control at the time of the request.

Penalty: 5 penalty units.

Part 2—Importation of goods

A New Tax System (Goods and Services Tax) Act 1999

8 Subsection 114-5(1) (table item 14)

Repeal the item.

A New Tax System (Wine Equalisation Tax) Act 1999

9 Section 5-30 (table item LE1)

Omit “71A(6)”, substitute “71A(7) or 71DB(7)”.

10 Section 5-30 (table item LE2)

Omit “71A(7)”, substitute “71A(8) or 71DB(8)”.

Customs Act 1901

11 Subparagraph 71(2)(a)(i)

Omit “less than $250”, substitute “$250 or less”.

12 Subsection 71A(3)

Omit all the words and paragraphs after “import declaration”, substitute:

must be communicated to Customs:

(a) by giving or sending it to an officer doing duty in relation to import declarations; or

(b) by leaving it at a place that has been allocated for lodgment of import declarations in a Customs Office;

at the place at which the goods are to be delivered for home consumption.

13 Subsection 71A(4)

Repeal the subsection.

14 Subsections 71DC(1) and (2)

Repeal the subsections, substitute:

(1) When an RCR is sent to Customs, the person who has entered into the relevant import information contract becomes liable to pay an RCR processing charge in respect of the RCR.

(2) The charge is payable when a periodic declaration, in respect of goods to which the RCR relates, is taken to have been sent to Customs.

15 Subsection 71DD(1)

Omit "the person to make RCRs in respect of goods", substitute "RCRs to be made by, or on behalf of, the person".

16 At the end of subsection 71DD(1)

Add:

Note: The CEO may make business rules that a person who wishes to enter into, or is a party to, an import information contract must comply with: see section 273EB.

17 Paragraph 71DD(3)(c)

Omit "(ABN 5600 407 185)", substitute "(ABN 5600 407 1854)".

18 Section 71DF

Repeal the section, substitute:

71DF Periodic declarations by persons who may make RCRs

If a person who has entered into an import information contract, or a customs broker nominated in the contract to make communications to Customs on behalf of the person, makes, during a particular month, one or more RCRs in respect of goods, the person or a broker who is so nominated:

(a) may, from time to time during the month, send electronically to Customs declarations (***periodic declarations***) containing such information in relation to the goods as is set out in an approved statement; but

(b) must send electronically to Customs at least one periodic declaration not later than the first day of the following month or such other day of that month as is prescribed.

19 Section 71DG

Repeal the section, substitute:

71DG Liability for a periodic declaration processing charge

(1) When a periodic declaration is sent to Customs under section 71DF, the person who has entered into the relevant import information contract becomes liable to pay a periodic declaration processing charge in respect of the declaration.

(2) The charge is payable when the periodic declaration is taken to have been sent to Customs.

20 Subsection 71DH(3)

Omit all the words and paragraphs after "warehouse declaration", substitute:

must be communicated to Customs:

(a) by giving or sending it to an officer doing duty in relation to warehouse declarations; or

(b) by leaving it at a place that has been allocated for lodgment of warehouse declarations in a Customs Office;

at the place at which the goods are to be delivered for warehousing.

21 Subsection 71DH(4)

Repeal the subsection.

22 Subsection 71E(2A)

After "the goods" (first occurring), insert "are goods to which section 68 applies and".

23 Subsection 71E(2A)

After "who has", insert ", or intends to take,".

24 Subsection 71E(3A)

Repeal the subsection.

25 Subsections 71E(3AA) and (3AB) (the subsections (3AA) and (3AB) inserted by item 34 of Schedule 21 to the *Law and Justice Legislation Amendment (Application of Criminal Code) Act 2001*)

Repeal the subsections.

26 After section 71L

Insert:

71M Requirements for communicating to Customs electronically

A communication that is required or permitted by this Division to be made to Customs electronically must:

(a) be signed by the person who makes it (see paragraph 126DA(1)(c)); and

(b) otherwise meet the information technology requirements determined under section 126DA.

Part 3—Exportation of goods

Customs Act 1901

27 Paragraphs 33(1)(b), (2)(b), (3)(c), (5)(b) and (6)(b)

After “authorised by”, insert “or under”.

28 At the end of section 33

Add:

Note 2: For permission to move, alter or interfere with goods for export, see section 119AA.

29 Subsection 114B(7)

Omit “status is”, substitute “status in”.

30 Subsection 114BB(1)

Omit “approved”, substitute “approval”.

31 At the end of subsection 114BB(1)

Add:

Note: The CEO may make business rules that a person who wishes to enter into, or is a party to, an export information contract must comply with: see section 273EB.

32 Paragraph 114BB(3)(c)

Omit “(ABN 5600 407 185)”, substitute “(ABN 5600 407 1854)”.

33 At the end of paragraph 114BC(b)

Add “or such other day of that month as is prescribed”.

34 Subsection 114C(7)

Omit “this Act”, substitute “a Customs-related law”.

35 Paragraph 114D(1)(b)

Omit all the words after “the entry” (first occurring), substitute:

unless:

(i) the entry has been withdrawn, or withdrawn in so far as it applies to those goods; or

(ii) a permission to move, alter or interfere with the goods has been given under section 119AA.

36 Subsection 117AA(3)

Omit all the words and paragraphs after "the place", substitute:

unless:

(a) the person has ascertained, from information made available by Customs, that:

(i) the goods have been entered for export; and

(ii) an authority to deal with the goods is in force; or

(b) a permission to move, alter or interfere with the goods has been given under section 119AA.

37 After subsection 118(1A)

Insert:

(1B) A Certificate of Clearance in respect of a ship or aircraft may only be granted on application under subsection (2) or (5).

38 At the end of subsection 118(2)

Add:

Note: Section 118A sets out the requirements for granting a Certificate of Clearance in respect of certain ships or aircraft.

39 After section 118

Insert:

118A Requirements for granting a Certificate of Clearance in respect of certain ships or aircraft

(1) This section applies to a ship or aircraft of a kind specified in the regulations.

(2) Before a Certificate of Clearance in respect of the ship or aircraft is granted under section 118, the master or owner of the ship or the pilot or owner of the aircraft must communicate to Customs, in accordance with this section, an outward manifest:

(a) specifying all of the goods (other than goods prescribed for the purposes of section 120) that are on board, or are to be loaded on board, the ship or aircraft at the port, airport or other place in Australia; or

(b) if there are no goods of the kind to which paragraph (a) applies—making a statement to that effect.

(3) An outward manifest may be made by document or electronically.

(4) A documentary outward manifest must:

(a) be in writing; and

(b) be in an approved form; and

(c) be communicated to Customs by sending or giving it to an officer doing duty in respect of the clearance of ships or aircraft; and

(d) contain such information as is required by the form; and

(e) be signed in a manner specified in the form.

(5) An electronic outward manifest must communicate such information as is set out in an approved statement.

40 Subsection 119(1)

Omit all the words before paragraph (a), substitute:

(1) If:

(aa) a ship or aircraft departs from a port, airport or other place in Australia; and

(ab) section 118A does not apply to the ship or aircraft;

the master or owner of the ship, or the pilot or owner of the aircraft, must communicate electronically to Customs, not later than 3 days after the day of departure, an outward manifest:

41 After section 119

Insert:

119AA Application for permission to move, alter or interfere with goods for export

(1) This section applies to goods:

(a) that are subject to the control of Customs under paragraph 30(1)(b), (c) or (d); and

(b) that have been entered for export; and

(c) in relation to which an authority to deal with the goods is in force.

(2) A person may apply to Customs for permission to move, alter or interfere with the goods in a particular way.

(3) An application under subsection (2) must:

(a) be made electronically; and

(b) communicate such information as is set out in an approved statement.

(4) The CEO may approve different statements for electronic applications made under this section in different circumstances or by different classes of persons.

(5) If an application is made under subsection (2), an officer may direct the applicant to ensure that the goods are held in the place where they are currently located until a decision is made on the application.

(6) If a direction is not given under subsection (5), or a reasonable period has elapsed since the giving of such a direction to enable the making of an informed decision on the application, an officer must send a message electronically to the applicant:

(a) giving the applicant permission to move, alter or interfere with the goods in accordance with the application either unconditionally or subject to such conditions as are specified in the message; or

(b) refusing the application and setting out the reasons for the refusal.

(7) If a person moves, alters or interferes with goods otherwise than in accordance with a relevant permission, the movement of the goods is, for the purposes of paragraph 229(1)(g), taken not to have been authorised by this Act.

42 At the end of section 119D

Add:

(3) For the purposes of this Act, an electronic application under section 119AA is taken to have been communicated to Customs when an acknowledgment of the application is communicated by Customs electronically to the person who sent the application.

43 After section 119D

Insert:

119E Requirements for communicating to Customs electronically

A communication that is required or permitted by this Division to be made to Customs electronically must:

(a) be signed by the person who makes it (see paragraph 126DA(1)(c)); and

(b) otherwise meet the information technology requirements determined under section 126DA.

Part 4—Other amendments

Customs Act 1901

44 Subsection 4(1) (definition of *screening charge*)

Repeal the definition, substitute:

> ***screening charge*** means charge imposed by the *Import Processing Charges Act 2001* and payable as set out in section 64ABC of this Act.

45 Subsection 102A(2)

After “goods are”, insert “to be”.

46 Subsection 102A(2)

Omit “have been”, substitute “are to be”.

47 Subsection 102A(2)

Omit “prescribed by the regulations”, substitute “that begins at the prescribed time and ends at the prescribed time”.

48 Subsection 122F(2)

Omit “this Act”, substitute “a Customs-related law”.

49 Paragraph 126DA(1)(b)

Repeal the paragraph.

50 Subsection 214AH(2)

Omit “if the occupier of the premises, or a representative previously nominated to Customs by the occupier, is unavailable to do so or absent from the premises”.

51 Subsection 214AH(2) (note)

Omit “is”, substitute “may be”.

52 Section 243SA

After “this Act”, insert “(other than subsection 214AH(2))”.

53 At the end of section 243SA

Add:

(2) A person must not fail to answer a question that a monitoring officer, pursuant to subsection 214AH(2), requires the person to answer, if:

(a) the person is the occupier of the relevant premises, or a representative of the occupier whom the occupier has nominated to Customs to answer questions under that subsection; or

(b) the person is not covered by paragraph (a) and no other person of the kind mentioned in that paragraph is present at the premises and available to answer questions put by the monitoring officer.

Penalty: 30 penalty units.

54 Subsection 243X(2)

Omit “inserted or substituted” (wherever occurring), substitute “inserted, substituted or amended”.

55 At the end of subsection 273EB(1)

Add:

Note 1: If a party to an import information contract fails to comply with any business rules, the CEO may terminate the contract: see paragraph 71DD(4)(c).

Note 2: If a party to an export information contract fails to comply with any business rules, the CEO may terminate the contract: see paragraph 114BB(4)(c).

Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001

56 Subsection 2(2)

Omit “subsection (6)”, substitute “subsection (7)”.

57 Subsection 2(3)

Omit “subsection (6)”, substitute “subsection (7)”.

58 Subsection 2(3)

Omit “, item 119 in Part 6 of Schedule 3, and Schedule 4,”, substitute “and item 119 in Part 6 of Schedule 3”.

59 Subsection 2(4)

Omit “subsection (6)”, substitute “subsection (7)”.

60 Subsection 2(4)

After “day”, insert “or days”.

61 Subsection 2(5)

Omit “subsection (6)”, substitute “subsections (6) and (7)”.

62 At the end of subsection 2(5)

Add:

; (d) the item in Schedule 4.

63 Subsection 2(6)

Omit “a Schedule”, substitute “Schedule 4”.

64 Subsection 2(6)

Omit “(2), (3), (4) or”.

65 At the end of section 2

Add:

(7) If an item in a Schedule (other than Schedule 4) does not commence under subsection (2), (3), (4) or (5) within the period of 3 years beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

66 After section 3

Insert:

4 Transitional—liability for cargo report processing charge during moratorium period

(1) This section applies to a documentary cargo report that a person makes, under section 64AB of the *Customs Act 1901* as amended by this Act, during:

(a) the general moratorium period (as defined in subsection (13) of that section); or

(b) a further moratorium period that has been granted to that person under subsection (14) of that section.

(2) Although this Act repeals:

(a) section 64ABB of the *Customs Act 1901*; and

(b) the definition of ***cargo report processing charge*** in subsection 4(1) of that Act;

those provisions continue to apply, in relation to the cargo report, as if those repeals had not happened.

67 Item 4 of Schedule 3

Repeal the item.

68 Item 27 of Schedule 3

Repeal the item, substitute:

27 Subparagraph 30(1)(ab)(i)

Omit “subsection 71(2)”, substitute “section 71”.

27A Paragraph 30(1)(ad)

Omit “subsection 71(2)”, substitute “section 71”.

69 After item 30 of Schedule 3

Insert:

30A Section 63A (definition of *low value cargo*)

Omit all the words and paragraphs after “consignment of”, substitute “which section 68 does not apply because of paragraph 68(1)(f)”.

70 Subitem 82(1) of Schedule 3

Repeal the subitem, substitute:

(1) This item applies to an import entry referred to in subsection 71A(1) of the *Customs Act 1901* that is transmitted to Customs using the COMPILE computer system:

(a) after this item commences; and

(b) before this Schedule repeals Division 4A of Part IV of that Act.

(1A) If the import entry relates to goods that are intended to be entered for home consumption, it is an import declaration for the purposes of that Act as amended by this Act.

(1B) If the import entry relates to goods that are intended to be entered for warehousing, it is a warehouse declaration for the purposes of that Act as amended by this Act.

71 Subitem 82(2) of Schedule 3

Omit "A communication to which subitem (1)", substitute "An import entry to which this item".

72 Item 111 of Schedule 3

Repeal the item, substitute:

111 Subparagraph 30(1)(ab)(i)

Omit "until there has been compliance with a Collector's permit for their unshipment and".

73 Item 116 of Schedule 3

Repeal the item, substitute:

116 Section 63A (definition of *low value cargo*)

Omit "cargo of one of the following kinds".

116A Section 63A (paragraph (a) of the definition of *low value cargo*)

Omit "(other than reportable documents)".

116B Section 63A (at the end of paragraph (a) of the definition of *low value cargo*)

Add "or".

116C Section 63A (paragraph (b) of the definition of *low value cargo*)

Repeal the paragraph.

Schedule 4—Seizure of goods in the Protected Zone

Customs Act 1901

1 Subsection 183UA(1) (at the end of the definition of *authorised person*)

Add:

; and (f) in relation to the exercise of powers under section 203CA or 203CB—an officer as defined by subsection 185(5).

2 Subsection 203(2)

Omit "or 203C", substitute ", 203C, 203CA or 203CB".

3 After section 203C

Insert:

203CA Seizure without warrant of certain goods on ship or aircraft in the Protected Zone

(1) This section applies to a ship if:

(a) section 185 applies to the ship; and

(b) the ship is exempt from any provision of the Customs Acts under subsection 30A(3) or the voyage of the ship is exempt from any such provision under subsection 30A(5).

Note: Section 30A gives effect to provisions of the Torres Strait Treaty in relation to certain traditional activities.

(2) This section applies to an aircraft if:

(a) section 185 applies to the aircraft; and

(b) the flight of the aircraft is exempt from any provision of the Customs Acts under subsection 30A(5).

Note: Section 30A gives effect to provisions of the Torres Strait Treaty in relation to certain traditional activities.

(3) An authorised person may seize without warrant any goods (other than narcotic goods) on the ship or aircraft that the authorised person reasonably suspects are special forfeited goods.

Note: For seizure of narcotic goods without warrant, see paragraph 185(2)(e) and section 203C.

(4) If, in the course of searching the ship or aircraft under section 185, an authorised person finds a thing that he or she believes on reasonable grounds is evidential material relating to an offence committed in respect of special forfeited goods, the authorised person may, without warrant, seize that thing.

(5) The authorised person must exercise his or her powers subject to section 203D.

203CB Seizure without warrant of certain other goods in the Protected Zone

(1) This section applies if an authorised person suspects on reasonable grounds that:

(a) goods are:

(i) at, or in a container at, a place that is near a ship or aircraft to which paragraph 203CA(1)(b) or (2)(b) applies; or

(ii) in, on, or in a container on, a conveyance at such a place; or

(iii) in a container in the immediate physical possession of, but not carried on the body of, a person at such a place; and

(b) the goods:

(i) in the case of an arriving ship or aircraft—have been unloaded from that ship or aircraft; or

(ii) in the case of a leaving ship or aircraft—will be loaded onto that ship or aircraft; and

(c) the goods are special forfeited goods (other than narcotic goods).

(2) The authorised person may, without warrant:

(a) search the place or any container at the place for special forfeited goods (other than narcotic goods); or

(b) stop and detain the conveyance about to leave the place, and search it and any container on it for such goods; or

(c) search the container in the immediate physical possession of the person for such goods;

as the case requires, and seize any goods that the authorised person reasonably suspects are special forfeited goods (other than narcotic goods) if the authorised person finds them there.

Note: For seizure of narcotic goods without warrant, see paragraph 185(2)(e) and section 203C.

(3) If, in the course of searching under subsection (2) for special forfeited goods, an authorised person finds a thing that he or she believes on reasonable grounds is evidential material relating to an offence committed in respect of those goods, the authorised person may, without warrant, seize that thing whether or not the authorised person has found those goods.

(4) For the purposes of a search conducted under subsection (2), the authorised person may question any person apparently in charge of the place, conveyance or container about any goods or thing at the place, in or on the conveyance, or in the container.

(5) The authorised person must exercise his or her powers subject to section 203D.

4 Subsection 203D(1)

Omit “a power”, substitute “powers”.

Note: The heading to section 203D is altered by omitting “**a power under section 203B or 203C**” and substituting “**certain powers**”.

5 Subsection 203D(1)

Omit “or 203C”, substitute “, 203C, 203CA or 203CB”.

6 Subsection 203D(1)

Omit “search it and any container found on it”, substitute “exercise those powers”.

7 Subsection 203D(2)

Omit “a power”, substitute “powers”.

8 Subsection 203D(2)

Omit “or 203C”, substitute “, 203C, 203CA or 203CB”.

9 Paragraph 203D(2)(c)

Omit “search”, substitute “the exercise of the powers”.

10 Subdivision F of Division 1 of Part XII (heading)

Repeal the heading, substitute:

Subdivision F—Dealing with things seized as evidential material

11 Subsection 203R(1)

Omit “or 203C(3)”, substitute “, 203C(3), 203CA(4) or 203CB(3)”.

Note: The heading to section 203R is altered by omitting “**under a search warrant or under subsection 203B(3) or 203C(3)**” and substituting “**as evidential material**”.

12 Subsection 203S(1)

Omit “or 203C(3)” (wherever occurring), substitute “, 203C(3), 203CA(4) or 203CB(3)”.

Note: The heading to section 203S is altered by omitting “**under a search warrant or under subsection 203B(3) or 203C(3)**” and substituting “**as evidential material**”.

13 Subdivision G of Division 1 of Part XII (heading)

Repeal the heading, substitute:

Subdivision G—Dealing with goods seized as forfeited goods

14 Subsection 204(2)

After “203B”, insert “, 203CA or 203CB”.

15 Subsection 204(3)

After “203B”, insert “, 203CA or 203CB”.

16 Paragraph 204(4)(a)

After “203B”, insert “, 203CA or 203CB”.

17 Subsection 205(1)

Omit “or 203C(2)”, substitute “, 203C(2), 203CA(3) or 203CB(2)”.

18 Subsection 205B(1)

Omit “or 203C(2)”, substitute “, 203C(2), 203CA(3) or 203CB(2)”.

19 Paragraph 205C(a)

Omit “or 203C(2)”, substitute “, 203C(2), 203CA(3) or 203CB(2)”.

20 Paragraph 205D(1)(a)

Omit “or 203C(2)”, substitute “, 203C(2), 203CA(3) or 203CB(2)”.

21 Subsection 205E(1)

Omit “or 203C(2)”, substitute “, 203C(2), 203CA(3) or 203CB(2)”.

Note: The heading to section 205E is altered by omitting “**under a seizure warrant or under subsection 203B(2) or (2A) or 203C(2)**”.

22 Paragraph 206(1)(a)

After “(2A)”, insert “, 203CA(3) or 203CB(2)”.

23 Paragraph 206(2)(a)

After “(2A)”, insert “, 203CA(3) or 203CB(2)”.

24 Paragraph 206(5)(b)

After “(2A)”, insert “, 203CA(3) or 203CB(2)”.

25 Paragraph 207(1)(a)

Omit “or 203C(2)”, substitute “, 203C(2), 203CA(3) or 203CB(2)”.

26 Section 208D

Omit “or 203C(2)”, substitute “, 203C(2), 203CA(3) or 203CB(2)”.

27 Subsection 208DA(1) (definition of *condemned goods*)

Omit “or 203C(2)”, substitute “, 203C(2), 203CA(3) or 203CB(2)”.

28 Paragraph 208DA(3A)(c)

After “203C”, insert “, 203CA, 203CB”.

29 Section 209A

Omit “or 203C”, substitute “, 203C, 203CA or 203CB”.

30 Subparagraph 219A(2)(c)(i)

Omit “or under subsection 203B(2) or (2A) or 203C(2) under section 203”, substitute “under section 203 or under subsection 203B(2) or (2A), 203C(2), 203CA(3) or 203CB(2)”.

31 Subsection 219NA(3)

After “203C”, insert “or 203CA”.

32 Paragraph 219NA(3)(a)

Omit “that section”, substitute “those sections”.

Schedule 5—Reporting re-mail items

Part 1—Amendments commencing first

Customs Act 1901

1 Section 63A

Insert:

re-mail item, in relation to a ship or aircraft, means an item of cargo carried on the ship or aircraft, in respect of which all of the following apply:

(a) the item is packaged in an addressed envelope, of paper or other material, whose length plus width does not exceed 80 cm;

(b) the item consists only of paper;

(c) the item and packaging weigh no more than one kilogram;

(d) the item either has no commercial value or is a publication in respect of which the following apply:

(i) the publication is sent from overseas to the addressee as a subscriber to the publication;

(ii) the subscription is made by a direct dealing with the consignor by either the addressee or another person arranging a gift subscription for the addressee;

(iii) the value of the publication does not exceed $250 (or such other amount as is prescribed for the purposes of subparagraph 68(1)(f)(iii));

(iv) the total liability for import duty and other taxes related to the importation of the publication does not exceed $50 (or such other amount, not exceeding $75, as is prescribed for the purposes of this definition);

(e) the item is not mail;

(f) the item is not, or does not contain, goods covered by paragraph (a) or (b) of the definition of ***prohibited goods*** in subsection 4(1);

(g) there is no individual document of carriage for the item;

(h) the item was consigned on the ship or aircraft by the consignor, with other items that are covered by paragraphs (a) to (g) of this definition, to different consignees.

2 Section 63A

Insert:

re-mail reporter means a person or partnership that is registered under Subdivision E as a re-mail reporter.

3 After subsection 64AB(3D)

Insert:

(3E) The form or statement approved under subsection (4) or (5) for a report by a re-mail reporter in relation to re-mail items must not require the reporter to include information relating to the items at a level of specificity below the level of a submaster air waybill or an ocean bill of lading, as the case requires.

Note: This means that a re-mail reporter using the approved form or statement does not have to give information about individual re-mail items.

(3F) However, a re-mail reporter must not use that approved form or statement for a re-mail item for which the reporter has information below that level of specificity.

Note: A re-mail reporter who does not use the approved form or statement for re-mail items must provide information about individual re-mail items in a cargo report.

4 At the end of Division 3 of Part IV

Add:

Subdivision E—Registering re-mail reporters

67F Applying to be a re-mail reporter

(1) A person or partnership may apply to be registered as a re-mail reporter.

Note: A re-mail reporter is generally not required to give information about individual re-mail items in a cargo report: see subsections 64AB(3E) and (3F).

(2) An application must:
  (a) be in writing; and
  (b) be in an approved form; and
  (c) contain the information that the form requires; and
  (d) be accompanied by any other documentation that the form requires; and
  (e) be signed in the manner indicated by the form; and
  (f) be lodged with an authorised officer.

67G Registering re-mail reporters

(1) The CEO must register an applicant as a re-mail reporter if:
  (a) the applicant applies under section 67F; and
  (b) the CEO is satisfied that the applicant would be unlikely to have information, or access to information, about re-mail items that would allow the applicant to make cargo reports at a level of specificity below the level of submaster air waybill or ocean bill of lading; and
  (c) the CEO is satisfied that the applicant meets the fit and proper person test under section 67H.

(2) For the purposes of deciding whether to register the applicant, the CEO may request, in writing, the applicant to provide additional information specified in the request within a specified period.

(3) The CEO must decide whether to register the applicant within:
  (a) if no additional information has been requested under subsection (2)—60 days of the lodgment of the application under section 67F; or
  (b) if additional information has been requested under subsection (2)—60 days of the CEO receiving the information.

(4) The CEO must:
  (a) notify the applicant in writing of his or her decision; and
  (b) if the decision is to register the applicant—specify, in the notification, the day from which the applicant is registered as a re-mail reporter.

(5) The registration may be made subject to any conditions specified in the notification.

67H Fit and proper person test

(1) An applicant meets the fit and proper person test for the purposes of paragraph 67G(1)(c) if the CEO is satisfied that:

(a) if the applicant is a natural person—the applicant is a fit and proper person to be registered as a re-mail reporter; and

(b) if the applicant is a partnership—all of the partners are fit and proper persons to be members of a partnership registered as a re-mail reporter; and

(c) if the applicant is a company—all of the company's directors, officers and shareholders who would participate in managing the affairs of the company are fit and proper persons to do so; and

(d) each employee of the applicant who would participate in making cargo reports in relation to re-mail items under section 64AB is a fit and proper person to do so; and

(e) if the applicant is a company—the company is a fit and proper company to be registered as a re-mail reporter.

(2) The CEO must, in deciding whether a person is a fit and proper person for the purposes of paragraph (1)(a), (b), (c) or (d), have regard to:

(a) any conviction of the person of an offence against this Act committed within the 10 years immediately before the decision; and

(b) any conviction of the person of an offence punishable by imprisonment for one year or longer:

(i) against another law of the Commonwealth; or

(ii) against a law of a State or Territory;

if that offence was committed within the 10 years immediately before that decision; and

(c) whether the person is an insolvent under administration; and

(d) whether the person was, in the 2 years immediately before that decision, a director of, or concerned in the management of, a company that:

(i) had been, or is being, wound up; or

(ii) had had its registration as a re-mail reporter cancelled by the CEO under paragraph 67K(1)(a), (b) or (d); and

(e) whether any misleading information or document has been provided in relation to the person by the applicant under subsection 67F(2) or 67G(2); and

(f) if any information or document given by or in relation to the person was false—whether the applicant knew that the information or document was false.

(3) The CEO must, in deciding whether a company is a fit and proper company for the purpose of paragraph (1)(e), have regard to:

(a) any conviction of the company of an offence:

(i) against this Act; or

(ii) if it is punishable by a fine of $5,000 or more—against another law of the Commonwealth, or a law of a State or Territory;

committed:

(iii) within the 10 years immediately before that decision; and

(iv) at a time when any person who is presently a director, officer or shareholder of a kind referred to in paragraph (1)(c) in relation to the company, was such a director, officer or shareholder; and

(b) whether a receiver of the property, or part of the property, of the company has been appointed; and

(c) whether the company is under administration within the meaning of the *Corporations Act 2001*; and

(d) whether the company has executed, under Part 5.3A of that Act, a deed of company arrangement that has not yet terminated; and

(e) whether the company has been placed under official management; and

(f) whether the company is being wound up.

(4) Nothing in this section affects the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and requires persons aware of such convictions to disregard them).

67I Obligation of re-mail reporters to notify the CEO of certain matters

A re-mail reporter must notify the CEO in writing if:

(a) an event or circumstance occurs after the reporter's registration which section 67H would require the CEO to have regard to if the reporter were, at that time, an applicant for registration; or

(b) a person becomes, or ceases to be:

(i) if the reporter is a partnership—a member of the partnership; and

(ii) if the reporter is a company—a director, officer or shareholder of the company who would participate in managing the affairs of the company; and

(iii) an employee of the reporter who would participate in making cargo reports in relation to re-mail items under section 64AB.

67J Varying etc. conditions of registration

(1) After registration, the CEO may impose a new condition on a re-mail reporter's registration by notifying the reporter in writing of the condition.

(2) The CEO may remove or vary any condition of a re-mail reporter's registration by notifying the reporter in writing of the removal or variation.

67K Cancelling the registration of a re-mail reporter

(1) The CEO may cancel the registration of a re-mail reporter if:

(a) the reporter reports an item of cargo in the approved form or statement referred to in subsection 64AB(3E) that was not a re-mail item; or

(b) the reporter uses the approved form or statement in breach of subsection 64AB(3F); or

(c) the CEO is no longer satisfied as mentioned in paragraph 67G(1)(b) or (c); or

(d) the reporter breaches a condition of the reporter's registration or section 67I.

(2) The CEO must notify the reporter in writing of the cancellation of the registration.

5 After paragraph 273GA(1)(aaae)

Insert:

(aaaf) a decision by the CEO under section 67G to refuse to register a person or a partnership as a re-mail reporter;

(aaag) a decision by the CEO under section 67G or 67J to impose a condition on a re-mail reporter's registration;

(aaah) a decision by the CEO under section 67J to vary a condition of a re-mail reporter's registration;

(aaai) a decision by the CEO under section 67K to cancel a re-mail reporter's registration;

Part 2—Amendments commencing second

Customs Act 1901

6 Section 63A (subparagraph (d)(iv) of the definition of *re-mail item*)

Repeal the subparagraph.

7 After subsection 64AB(7)

Insert:

(7A) The form or statement approved for a report by a re-mail reporter in relation to re-mail items must not require the reporter to include information relating to re-mail items at a level of specificity below the level of a submaster air waybill or an ocean bill of lading, as the case requires.

Note: This means that a re-mail reporter using the approved form or statement does not have to give information about individual re-mail items.

(7B) However, a re-mail reporter must not use that approved form or statement for a re-mail item for which the reporter has information below that level of specificity.

Note: A re-mail reporter who does not use the approved form or statement for re-mail items must provide information about individual re-mail items in a cargo report.

8 Subsection 67F(1) (note)

Omit “subsections 64AB(3E) and (3F)”, substitute “subsections 64AB(7A) and (7B)”.

9 Paragraph 67K(1)(a)

Omit “subsection 64AB(3E)”, substitute “subsection 64AB(7A)”.

10 Paragraph 67K(1)(b)

Omit “subsection 64AB(3F)”, substitute “subsection 64AB(7B)”.

Schedule 6—Passenger movement charge

Passenger Movement Charge Collection Act 1978

1 Paragraph 5(j)

After “Australia”, insert “by ship”.

2 At the end of paragraph 5(k)

Add:

(iv) the *Overseas Missions (Privileges and Immunities) Act 1995*; or

[*Minister’s second reading speech made in—*
House of Representatives on 19 June 2002
Senate on 22 August 2002]