





# **Customs Amendment (Miscellaneous Measures) Act2013**

**No. 33, 2013**

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

[Assented to 30 March 2013]

The Parliament of Australia enacts:

### 1 Short title

This Act may be cited as the *Customs Amendment (Miscellaneous Measures) Act 2013*.

## Schedule 1 Amendments

### Part 1 Unlawful bringing of restricted goods into Australia

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## 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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	30 March 2013
2. Schedule 1, Part 1	A single day to be fixed by Proclamation. However, if the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	
3. Schedule 1, Parts 2 to 9	The day after this Act receives the Royal Assent.	31 March 2013

Note: This table relates only to the provisions of this Act as originally enacted.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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Amendments**

### **Part 1—Unlawful bringing of restricted goods into Australia**

#### *Customs Act 1901*

#### **1 Subsection 4(1) (after paragraph (b) of the definition of *Prohibited goods*)**

Insert:

- (ba) restricted goods that have been brought into Australia other than in accordance with a permission under subsection 233BABAE(2); or

#### **2 Subsection 4(1)**

Insert:

*restricted goods* has the meaning given by section 233BABAE.

#### **3 After subsection 4(19A)**

Insert:

- (19B) Without limiting Part XII, a person is taken to be unlawfully carrying prohibited goods on his or her body if the person is carrying, on his or her body, restricted goods that have been brought into Australia other than in accordance with a permission under subsection 233BABAE(2).

#### **4 Subsection 183UA(1) (paragraph (b) of the definition of *special forfeited goods*)**

After “229(1)(b),”, insert “(da),”.

#### **5 After paragraph 229(1)(d)**

Insert:

- (da) All restricted goods brought into Australia other than in accordance with a permission under subsection 233BABAE(2).

## 6 Before section 233BABA

Insert:

### 233BABAE Offence for bringing restricted goods into Australia

(1) A person commits an offence of strict liability if:

- (a) the person brings goods into Australia; and
- (b) the goods are restricted goods.

Penalty: 1,000 penalty units.

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

(2) Subsection (1) does not apply if the person brings the goods into Australia in accordance with a written permission given by the Minister for the purposes of this subsection.

(3) For the purposes of this Act, *restricted goods* are goods:

- (a) that, if imported, would be prohibited imports; and
- (b) that are prescribed by the regulations for the purposes of this definition.

(4) This section has effect only for purposes related to external affairs, including:

- (a) for purposes related to giving effect to an international agreement to which Australia is a party; and
- (b) for purposes related to addressing matters of international concern.

### 7 Subsection 233BABA(1)

Omit “or smuggled goods”, substitute “, smuggled goods or restricted goods”.

### 8 Paragraph 233BABA(2)(a)

Omit “or smuggled goods”, substitute “, smuggled goods or restricted goods”.

### 9 Application provision

The amendments made by this Part apply in relation to goods brought into Australia on or after the commencement of this Part.

## **Part 2—Entry of ships or aircraft for home consumption or warehousing**

### *Customs Act 1901*

#### **10 Paragraph 30(1)(a)**

After “goods to which section 68 applies that are unshipped”, insert “or that are a ship or aircraft not carried on board a ship or aircraft”.

#### **11 Paragraph 30(1)(aa)**

Omit “unshipped”, substitute “goods to which paragraph (a) of this subsection applies”.

#### **12 Subsections 68(2) and (3)**

Repeal the subsections, substitute:

- (2) The owner of goods to which this section applies may enter the goods for home consumption or for warehousing:
  - (a) for goods carried on board a ship or aircraft—at any time before the ship or aircraft first arrives at a port or airport in Australia at which any goods are to be discharged; or
  - (b) for goods that are a ship or aircraft and that are not carried on board a ship or aircraft—at any time before the ship or aircraft first arrives at a port or airport in Australia.
- (3) If the owner of goods to which this section applies does not enter the goods under subsection (2) for home consumption or for warehousing, the owner must enter the goods for home consumption or for warehousing:
  - (a) for goods carried on board a ship or aircraft—after the ship or aircraft first arrives at a port or airport in Australia at which any goods are to be discharged; or
  - (b) for goods that are a ship or aircraft and that are not carried on board a ship or aircraft—after the ship or aircraft first arrives at a port or airport in Australia.

#### **13 Subsections 71A(7) and (8)**

Repeal the subsections, substitute:

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(7) If:

- (a) an import declaration is, or is taken under section 71L to have been, communicated to Customs; and
- (b) before the time when the declaration is, or is so taken to have been, communicated to Customs, the goods to which the declaration relates:
  - (i) have been imported; or
  - (ii) for goods carried on board a ship or aircraft—have been brought to the first port or airport in Australia at which any goods are to be discharged; or
  - (iii) for goods that are a ship or aircraft and that are not carried on board a ship or aircraft—have arrived at a port or airport in Australia;

the goods are taken to have been entered for home consumption.

(8) If:

- (a) an import declaration is, or is taken under section 71L to have been, communicated to Customs; and
- (b) at the time when the declaration is, or is so taken to have been, communicated to Customs, the goods to which the declaration relates:
  - (i) for goods carried on board a ship or aircraft—have not been brought to the first port or airport in Australia at which any goods are to be discharged; or
  - (ii) for goods that are a ship or aircraft and that are not carried on board a ship or aircraft—have not arrived at a port or airport in Australia;

the goods are taken to be entered for home consumption only when they are brought to that first port or airport in Australia or when they arrive at a port or airport in Australia (as the case requires).

#### **14 Subsection 71E(2A)**

Repeal the subsection, substitute:

(2A) If:

- (a) the goods are goods to which section 68 applies; and
  - (b) the goods have not been entered for home consumption or warehousing; and
  - (c) subsection (2C) does not apply to the goods;
- a movement application may be made only by:

- (d) for goods carried on board a ship or aircraft—the operator of the ship or aircraft, a cargo reporter in relation to the goods, or a stevedore or depot operator who has, or intends to take, possession of the goods; or
- (e) for goods that are a ship or aircraft and that are not carried on board a ship or aircraft—the owner of the goods.

### **15 Section 104 (heading)**

Repeal the heading, substitute:

### **104 Customable beverage imported in bulk must be entered for warehousing**

### **16 Section 104**

Omit “either be entered for warehousing under paragraph 68(2)(b) or for transshipment under paragraph 68(2)(c)”, substitute “be entered for warehousing under subsection 68(2) or (3)”.

### **17 Saving provisions**

- (1) The amendment made by item 12 does not affect the validity of entries of goods for home consumption or warehousing made before the commencement of that item.
- (2) The amendment made by item 14 does not affect the validity of movement applications made before the commencement of that item.

## Part 3—Valuation of imported goods

### *Customs Act 1901*

**18 Subsection 154(1) (subparagraph (a)(i) of the definition of *purchaser’s material costs*)**

Omit “cost of acquisition”, substitute “value of the materials at the time of acquisition by the purchaser”.

**19 Subsection 154(1) (subparagraph (a)(ii) of the definition of *purchaser’s material costs*)**

Omit “cost of acquisition of the materials by the person”, substitute “value of the materials at the time of acquisition by the purchaser”.

**20 Subsection 154(1) (subparagraph (a)(ii) of the definition of *purchaser’s subsidiary costs*)**

Omit “cost of acquisition”, substitute “value of the subsidiary goods at the time of acquisition by the purchaser”.

**21 Subsection 154(1) (subparagraph (a)(iii) of the definition of *purchaser’s subsidiary costs*)**

Omit “cost of acquisition by the person”, substitute “value of the subsidiary goods at the time of acquisition by the purchaser”.

**22 Subsection 154(1) (subparagraph (e)(i) of the definition of *purchaser’s subsidiary costs*)**

Omit “cost of that supply”, substitute “value of the subsidiary services at the time of that supply”.

**23 Subsection 154(1) (subparagraph (a)(i) of the definition of *purchaser’s tooling costs*)**

Omit “cost of acquisition”, substitute “value of the tooling at the time of acquisition by the purchaser”.

**24 Subsection 154(1) (subparagraph (a)(ii) of the definition of *purchaser’s tooling costs*)**

Omit “cost of acquisition of the tooling by the person”, substitute “value of the tooling at the time of acquisition by the purchaser”.

**25 Subsection 154(1) (subparagraph (a)(ii) of the definition of *purchaser’s work costs*)**

Omit “cost of acquisition”, substitute “value of the work goods at the time of acquisition by the purchaser”.

**26 Subsection 154(1) (subparagraph (a)(iii) of the definition of *purchaser’s work costs*)**

Omit “cost of acquisition by the person”, substitute “value of the work goods at the time of acquisition by the purchaser”.

**27 Subsection 154(1) (subparagraph (d)(i) of the definition of *purchaser’s work costs*)**

Omit “cost of that supply”, substitute “value of the work services at the time of that supply”.

**28 Application provision**

The amendments made by this Part apply in relation to:

- (a) goods imported into Australia on or after the commencement of this Part; and
- (b) goods imported into Australia before the commencement of this Part, where the time for working out the rate of import duty on the goods had not occurred before the commencement of this Part.

## **Part 4—Designation of Customs places**

### *Customs Act 1901*

#### **29 Subparagraphs 234AA(1)(a)(i), (ii) and (iii)**

After “passengers”, insert “or crew”.

#### **30 Subsection 234AA(3)**

Omit “an airport”, substitute “a port, or an airport,”.

#### **31 Paragraph 234A(1)(b)**

After “passengers”, insert “or crew”.

#### **32 Paragraph 234A(1B)(b)**

After “passengers”, insert “or crew”.

#### **33 Paragraph 234AB(1)(b)**

After “passengers”, insert “or crew”.

#### **34 Application provisions**

- (1) The amendment made by item 31 applies in relation to the examination of baggage on or after the commencement of that item.
- (2) The amendment made by item 32 applies in relation to notices given on or after the commencement of that item.
- (3) The amendment made by item 33 applies in relation to directions given on or after the commencement of that item.

## **Part 5—Warehouse licences**

### *Customs Act 1901*

#### **35 After section 80**

Insert:

#### **80A CEO may require applicant to supply further information**

- (1) The CEO may, by written notice given to an applicant for a warehouse licence, require the applicant to supply further information in relation to the application within the period that is specified in the notice.
- (2) The CEO may extend the specified period if the applicant, in writing, requests the CEO to do so.
- (3) If the applicant:
  - (a) fails to supply the further information within the specified period, or that period as extended under subsection (2); but
  - (b) supplies the information at a later time;the CEO must not take the information into account in determining whether to grant the warehouse licence.

#### **36 Paragraph 81(2)(d)**

Omit “made in”, substitute “made under section 80 or 80A in relation to”.

#### **37 Subsection 81A(1)**

Repeal the subsection, substitute:

- (1) If an application for a warehouse licence is made, the CEO must decide whether or not to grant the licence within 60 days after:
  - (a) if paragraph (b) does not apply—the receipt of the application; or
  - (b) if the CEO, under section 80A, requires the applicant to supply further information in relation to the application and the applicant supplies the information in accordance with that section—the receipt of the information.

### **38 Application provision**

The amendments made by this Part apply in relation to applications for warehouse licences made on or after the commencement of this Part.

## **Part 6—Notification of particulars of cargo reporters**

### *Customs Act 1901*

#### **39 At the end of section 64AAB**

Add:

- (9) A cargo reporter who is required to make a report under this section is not liable to be prosecuted for, and cannot be served with an infringement notice under Division 5 of Part XIII for, an offence against this section if:
  - (a) the cargo reporter made a report, but contravened subsection (4) of this section; and
  - (b) the time (the *actual time of arrival*) at which the ship or aircraft in question arrived at the first port or airport in Australia since it last departed from a port or airport outside Australia was later than the estimated time of arrival referred to in subsection 64AB(8); and
  - (c) the cargo reporter would not have contravened subsection (4) of this section if the estimated time of arrival of the ship or aircraft had been its actual time of arrival.

## **Part 7—Accredited client program**

### *A New Tax System (Wine Equalisation Tax) Act 1999*

**40 Section 5-30 (table item LE1)**

Omit “or 71DB(7)”.

**41 Section 5-30 (table item LE2)**

Omit “or 71DB(8)”.

### *Customs Act 1901*

**42 Subsection 4(1) (definition of *accredited client*)**

Repeal the definition.

**43 Subsection 4(1) (definition of *accredited client payment day*)**

Repeal the definition.

**44 Subsection 4(1) (definition of *ACEAM*)**

Repeal the definition.

**45 Subsection 4(1) (paragraphs (aa) and (c) of the definition of *Authority to deal*)**

Repeal the paragraphs.

**46 Subsection 4(1) (definition of *business rules*)**

Repeal the definition.

**47 Subsection 4(1) (definition of *cargo release advice*)**

Repeal the definition.

**48 Subsection 4(1) (paragraph (a) of the definition of *commercial document*)**

Omit “RCR,”.

**49 Subsection 4(1) (paragraph (a) of the definition of *commercial document*)**

Omit “, RCR” (last occurring).

**50 Subsection 4(1) (definition of *export information contract*)**

Repeal the definition.

**51 Subsection 4(1) (definition of *import entry advice*)**

Omit “, a cargo release advice”.

**52 Subsection 4(1) (definition of *import information contract*)**

Repeal the definition.

**53 Subsection 4(1) (definition of *periodic declaration*)**

Repeal the definition.

**54 Subsection 4(1) (definition of *periodic declaration processing charge*)**

Repeal the definition.

**55 Subsection 4(1) (definition of *RCR*)**

Repeal the definition.

**56 Subsection 4(1) (definition of *RCR processing charge*)**

Repeal the definition.

**57 Subsection 68(3A)**

Repeal the subsection, substitute:

(3A) An entry of goods for home consumption is made by communicating to Customs an import declaration in respect of the goods.

**58 Subdivision C of Division 4 of Part IV**

Repeal the Subdivision.

**59 Subsection 71G(1)**

Omit “, a further RCR”.

**60 Subsection 71G(1)**

Omit “or RCR”.

**61 Subsection 71L(3)**

Omit “, a return for the purposes of subsection 69(8) or 70(7) or section 105C or a periodic declaration”, substitute “or a return for the purposes of subsection 69(8) or 70(7) or section 105C”.

**62 Subsection 71L(3)**

Omit “, the return or the declaration”, substitute “or the return”.

**63 Subsection 71L(3)**

Omit “, return or declaration”, substitute “or return”.

**64 Section 113AA**

Repeal the section, substitute:

**113AA How an entry of goods for export is made**

An entry of goods for export is made by making in respect of the goods an export declaration other than a declaration that Customs refuses under subsection 114(8) to accept.

**65 Subdivision C of Division 2 of Part VI**

Repeal the Subdivision.

**66 Subsection 114C(4B)**

Repeal the subsection.

**67 Paragraph 114C(5)(b)**

Omit “or an ACEAN”.

**68 Paragraph 114C(5)(b)**

Omit “or used the ACEAN”.

**69 Paragraph 114C(6)(b)**

Omit “or an ACEAN”.

**70 Paragraph 114C(6)(b)**

Omit “or used the ACEAN”.

**71 Paragraph 114C(7)(b)**

Omit “or an ACEAN”.

**72 Subsection 114CA(3)**

Omit “or an ACEAN”.

**73 Paragraph 114CA(3)(a)**

Omit “or used the ACEAN”.

**74 Subsection 114CB(3)**

Omit “or an ACEAN”.

**75 Section 116A**

Repeal the section.

**76 Subsection 132AA(4) (table item 1A)**

Repeal the item.

**77 Subsections 132B(4) and (8)**

Omit “or 71DE”.

**78 Subsections 167(3B), (3C) and (4A)**

Repeal the subsections.

**79 Part XVI (heading)**

Repeal the heading, substitute:

**Part XVI—Regulations and by-laws**

**80 Section 273EB**

Repeal the section.

**81 Paragraph 273GA(1)(aag)**

Omit “, 71DE”.

***Import Processing Charges Act 2001***

**82 Subsection 3(1) (paragraphs (d) and (e) of the definition of *import processing charge*)**

Repeal the paragraphs.

**83 Subsections 4(4) and (5)**

Repeal the subsections.

**84 Subsections 5(4) and (5)**

Repeal the subsections.

## **Part 8—Electronic cargo reporting**

### *Customs Act 1901*

**85 Subsection 64AB(3)**

Repeal the subsection.

**86 Subsection 64AB(4)**

Omit “to which subsection (3) does not apply”.

**87 Subsection 64AB(4A)**

Repeal the subsection.

**88 Subsection 64AB(5)**

Omit “required by an approved form to be contained in a documentary cargo report, or required by an approved statement to be communicated electronically,”, substitute “required by an approved statement to be communicated electronically”.

**89 Paragraphs 64AB(5)(a), (aa) and (b)**

Omit “form or”.

**90 Subsection 64AB(6)**

Omit “forms or”.

**91 Subsections 64AB(7) and (7A)**

Omit “form or”.

**92 Subsection 64AB(7A) (note)**

Omit “form or”.

**93 Subsection 64AB(7B)**

Omit “form or”.

**94 Subsection 64AB(7B) (note)**

Omit “form or”.

**95 Subsections 64AB(12) to (14)**

Repeal the subsections.

**96 Subsection 64ACE(1)**

Omit “64AB.”.

**97 Paragraph 273GA(1)(aaaaa)**

Repeal the paragraph.

## **Part 9—Other amendments**

### *Customs Act 1901*

#### **98 Subsection 69(8)**

Omit “subsection (4)”, substitute “subsection (5)”.

#### **99 Subsection 77F(1) (definition of *Tribunal*)**

Repeal the definition.

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*[Minister’s second reading speech made in—  
House of Representatives on 28 November 2012  
Senate on 7 February 2013]*