



Customs Amendment (Collecting Tobacco Duties at the Border) Act 2018

No. 131, 2018

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

Note: An electronic version of this Act is available on the Federal Register of Legislation (<https://www.legislation.gov.au/>)

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No. 131, 2018

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

[Assented to 25 October 2018]

The Parliament of Australia enacts:

1 Short title

This Act is the *Customs Amendment (Collecting Tobacco Duties at the Border) Act 2018*.

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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.

Commencement information		
Column 1	Column 2	Column 3
Provisions	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.	25 October 2018
2. Schedule 1	The later of: (a) 1 July 2019; and (b) the day after this Act receives the Royal Assent.	1 July 2019 (paragraph (a) applies)

Note: This table relates only to the provisions of this Act as originally enacted.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 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Customs Act 1901

1 Subsection 4(1)

Insert:

tobacco products 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).

2 Subsection 68(2)

Omit “or for warehousing”, substitute “or, for goods other than tobacco products, enter the goods for warehousing”.

3 At the end of subsection 68(2)

Add:

Note: Tobacco products cannot be entered for warehousing (see section 71DG).

4 Subsection 68(3)

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

- (3) If the owner of goods to which this section applies does not enter the goods under subsection (2), the owner must enter the goods for home consumption or, for goods other than tobacco products, enter the goods for warehousing:

5 Subsection 68(3B)

After “An entry of goods”, insert “(other than tobacco products)”.

6 Before subsection 69(1)

Insert:

- (1A) This section does not apply to tobacco products.

7 Before section 71DH

Insert:

71DG Subdivision does not apply to tobacco products

This Subdivision does not apply to tobacco products.

Note: Tobacco products cannot be warehoused (see subsections 68(2) and (3)).

8 Section 80

Before “An application for”, insert “(1)”.

9 At the end of section 80

Add:

- (2) An application cannot be made under subsection (1) to use a place described in the application to warehouse tobacco products.

10 After subsection 82(1)

Insert:

- (2) A warehouse licence is subject to the condition that no tobacco products will be warehoused in the warehouse.

11 Subsection 233BABAD(7)

Repeal the subsection.

Part 2—Application and transitional provisions

12 Application provision

- (1) The amendments made by items 2, 3, 4, 5 and 7 of this Schedule apply in relation to:
 - (a) tobacco products imported into Australia on or after the commencement of this item; and
 - (b) tobacco products:
 - (i) imported into Australia before the commencement of this item; and
 - (ii) not entered for home consumption or warehousing before the commencement of this item.
 - (2) The amendments made by items 6, 8 and 9 of this Schedule apply in relation to applications:
 - (a) made on or after the commencement of this item; or
 - (b) pending at the commencement of this item.
 - (3) The amendments made by item 10 of this Schedule apply:
 - (a) in relation to a licence for a warehouse other than a warehouse mentioned in subitem (4)—on and after the day after the end of the period mentioned in subitem 13(2); or
 - (b) in relation to a licence for a warehouse mentioned in subitem (4)—on and after the day after the end of the 6 month period beginning the day this item commences; regardless of whether the licence was granted before, on or after the commencement of this item.
 - (4) For the purposes of subitem (3), the warehouses are the following:
 - (a) an outwards duty free shop (within the meaning of section 96A of the *Customs Act 1901*);
 - (b) an inwards duty free shop (within the meaning of section 96B of that Act);
 - (c) a warehouse that only warehouses either or both of the following:
 - (i) ship's stores (within the meaning of section 130C of that Act);
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- (ii) aircraft's stores (within the meaning of section 130C of that Act).

13 Transitional provision—tobacco products warehoused at commencement

- (1) This item applies in relation to tobacco products that are warehoused immediately before the commencement of this item, other than tobacco products that are warehoused in any of the following:
 - (a) an outwards duty free shop (within the meaning of section 96A of the *Customs Act 1901*);
 - (b) an inwards duty free shop (within the meaning of section 96B of that Act);
 - (c) a warehouse that only warehouses either or both of the following:
 - (i) ship's stores (within the meaning of section 130C of that Act);
 - (ii) aircraft's stores (within the meaning of section 130C of that Act).
- (2) Section 72 of the *Customs Act 1901* applies, on and after the commencement of this item, to the tobacco products as if:
 - (a) the requirement in paragraph 72(1)(a) of that Act was a requirement to enter the tobacco products for home consumption; and
 - (b) the period mentioned in paragraph 72(1)(b) of that Act was the period of 7 days beginning on the day this item commences; and
 - (c) the period for the purposes of paragraph 72(4)(b) of that Act was the period of 7 days beginning on the day this item commences.

14 Transitional provision—permissions under section 69 of the *Customs Act 1901*

- (1) This item applies if:
 - (a) immediately before the commencement of this item, a permission under subsection 69(5) of the *Customs Act 1901* is in force; and
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- (b) the permission permits a person to deliver into home consumption goods that are tobacco products, without entering them for that purpose.
- (2) The permission has no effect, on and after the commencement of this item, to the extent that it permits the delivery into home consumption of tobacco products.

15 Transitional provision—movement permissions under section 71E of the *Customs Act 1901*

- (1) This item applies if:
 - (a) immediately before the commencement of this item, a movement permission under section 71E of the *Customs Act 1901* is in force; and
 - (b) the permission permits the movement of tobacco products.
- (2) The permission has no effect, on and after the commencement of this item, to the extent that it permits the movement of tobacco products to or from a warehouse.

16 Transitional provision—warehouse licence renewals

- (1) This item applies to a warehouse licence that is in force under section 83 of the *Customs Act 1901* immediately before the commencement of this item.
- (2) The Comptroller-General of Customs must not renew the warehouse licence under section 84 of that Act if the only goods that are warehoused in the warehouse are tobacco products.

[*Minister's second reading speech made in—
House of Representatives on 19 September 2018
Senate on 17 October 2018*]

(194/18)

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