



# Customs, Excise and Bounty Legislation Amendment Act 1995

No. 85 of 1995

## TABLE OF PROVISIONS

Section	
1.	Short title
2.	Commencement
3.	Amendments of the <i>Bounty (Fuel Ethanol) Act 1994</i>
4.	Amendments of the <i>Coal Excise Act 1949</i>
5.	Amendments of the <i>Commerce (Trade Descriptions) Act 1905</i>
6.	Amendments of the <i>Customs Act 1901</i>
7.	Amendments of the <i>Customs Administration Act 1985</i>
8.	Amendments of the <i>Distillation Act 1901</i>
9.	Amendments of the <i>Excise Act 1901</i>
10.	Amendments of the <i>Spirits Act 1906</i>
11.	Amendments consequential on the establishment of the office of Chief Executive Officer of Customs
12.	Other consequential amendments
13.	Application of rules of origin relating to inland freight
14.	Notices concerning protected objects
15.	Application of section 269HA of the <i>Customs Act 1901</i>

TABLE OF PROVISIONS—*continued*

Section

16. Regulations made for the purposes of subsection 269SJ(1) of the *Customs Act 1901* to continue in force
17. Transitional—Comptroller-General of Customs to become Chief Executive Officer of Customs
18. Transitional—references in any law of the Commonwealth to the Comptroller-General of Customs etc.
19. Transitional—references in any law of the Commonwealth to the Collector of Customs for a State or Territory etc.
20. Saving provision concerning forfeited goods
21. Repeals

SCHEDULE 1

AMENDMENTS OF THE BOUNTY (FUEL ETHANOL) ACT 1994

SCHEDULE 2

AMENDMENTS OF THE COAL EXCISE ACT 1949

SCHEDULE 3

AMENDMENTS OF THE COMMERCE (TRADE DESCRIPTIONS) ACT 1905

SCHEDULE 4

AMENDMENTS OF THE CUSTOMS ACT 1901

SCHEDULE 5

AMENDMENTS OF THE CUSTOMS ADMINISTRATION ACT 1985

SCHEDULE 6

AMENDMENTS OF THE DISTILLATION ACT 1901

SCHEDULE 7

AMENDMENTS OF THE EXCISE ACT 1901

SCHEDULE 8

AMENDMENTS OF THE SPIRITS ACT 1906

SCHEDULE 9

AMENDMENTS CONSEQUENTIAL ON THE ESTABLISHMENT OF THE  
OFFICE OF CHIEF EXECUTIVE OFFICER OF CUSTOMS

SCHEDULE 10

OTHER CONSEQUENTIAL AMENDMENTS



# Customs, Excise and Bounty Legislation Amendment Act 1995

No. 85 of 1995

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## **An Act to amend legislation relating to Customs and Excise and to Bounties, and for related purposes**

[Assented to 1 July 1995]

The Parliament of Australia enacts:

### **Short title**

1. This Act may be cited as the *Customs, Excise and Bounty Legislation Amendment Act 1995*.

### **Commencement**

2.(1) Subject to subsections (2), (3), (4), (5) and (6), this Act commences on the day on which it receives the Royal Assent.

(2) Schedule 1 is taken to have commenced on 23 June 1994.

(3) Items 16 and 18 to 25 of Schedule 4 are taken to have commenced on 1 April 1994.

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

(4) Items 7 to 9, 46 to 48, and 54, 55 and 62 of Schedule 4 commence on a day to be fixed by Proclamation.

(5) Schedules 2 and 3, items 1, 26 to 45, 49 to 53 and 56 and 67 of Schedule 4, Schedule 6, items 6 to 11 of Schedule 7 and Schedules 8 and 10 commence on 1 July 1995. 5

(6) If items 7 to 9, 46 to 48, and 54, 55 and 62 of Schedule 4 do not commence under subsection (4) within the period of 6 months commencing on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.

**Amendments of the *Bounty (Fuel Ethanol) Act 1994*** 10

3. The *Bounty (Fuel Ethanol) Act 1994* is amended as set out in Schedule 1.

**Amendments of the *Coal Excise Act 1949***

4. The *Coal Excise Act 1949* is amended as set out in Schedule 2.

**Amendments of the *Commerce (Trade Descriptions) Act 1905*** 15

5. The *Commerce (Trade Descriptions) Act 1905* is amended as set out in Schedule 3.

**Amendments of the *Customs Act 1901***

6. The *Customs Act 1901* is amended as set out in Schedule 4.

**Amendments of the *Customs Administration Act 1985*** 20

7. The *Customs Administration Act 1985* is amended as set out in Schedule 5.

**Amendments of the *Distillation Act 1901***

8. The *Distillation Act 1901* is amended as set out in Schedule 6.

**Amendments of the *Excise Act 1901*** 25

9. The *Excise Act 1901* is amended as set out in Schedule 7.

**Amendments of the *Spirits Act 1906***

10. The *Spirits Act 1906* is amended as set out in Schedule 8.

**Amendments consequential on the establishment of the office of Chief Executive Officer of Customs** 30

11. The Acts set out in Schedule 9 are amended as set out in that Schedule.

**Other consequential amendments**

12. The Acts set out in Schedule 10 are amended as set out in that Schedule. 35

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**Application of rules of origin relating to inland freight**

13. Subsection 153D(3) of the *Customs Act 1901*, as amended by this Act, applies only in respect of goods entered for home consumption on or after the day on which this Act receives the Royal Assent.

**Notices concerning protected objects**

14. If:

- (a) a notice has been issued in respect of an object under section 203A of the *Customs Act 1901*; and
- (b) that notice is in force immediately before the day on which this Act receives the Royal Assent;

that notice has effect, on and after that day, as if it were a notice issued under section 203T of the *Customs Act 1901*, as amended by this Act.

**Application of section 269HA of the *Customs Act 1901***

15. Section 269HA of the *Customs Act 1901*, as amended by this Act, applies:

- (a) in relation to any application for a tariff concession order made before the day on which this Act receives the Royal Assent that has not been determined before that day; and
- (b) in relation to any application for a tariff concession order made on or after that day.

**Regulations made for the purposes of subsection 269SJ(1) of the *Customs Act 1901* to continue in force**

16. All regulations made for the purposes of subsection 269SJ(1) of the *Customs Act 1901* as in force immediately before the day on which this Act receives the Royal Assent continue in force, on and after that day, as if they were made for the purposes of paragraph 269SJ(1)(b) of that Act as amended by this Act.

**Transitional—Comptroller-General of Customs to become Chief Executive Officer of Customs**

17.(1) The person who is the Comptroller-General of Customs immediately before the day on which this Act receives the Royal Assent is taken, on and after that day, for the purposes of section 5 of the *Customs Administration Act 1985*, as amended by Schedule 5 of this Act, to have been appointed on that day by the Governor-General as the Chief Executive Officer of Customs for a period ending 5 years after that day.

(2) Except as expressly provided by this Act or by the *Customs Administration Act 1985* as amended by Schedule 5 of this Act, the person taken to be appointed as the Chief Executive Officer of Customs under

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

subsection (1) holds office, until the Governor-General determines otherwise, on the same terms and conditions as he or she held office as the Comptroller-General of Customs.

**Transitional—references in any law of the Commonwealth to the Comptroller-General of Customs etc.**

**18.(1)** A reference:

(a) in any law of the Commonwealth in force immediately before the day on which this Act receives the Royal Assent; or

(b) in any instrument made under such a law;

to the Comptroller-General of Customs, the Comptroller-General or the Comptroller is taken, on and after that day, to be a reference to the Chief Executive Officer of Customs.

(2) An act or thing done by the Comptroller-General of Customs in the exercise, or purported exercise, of a power conferred under any law of the Commonwealth in force immediately before the day on which this Act receives the Royal Assent, is taken on and after that day, to be an act or thing done by the Chief Executive Officer of Customs in the exercise, or purported exercise, of that power.

(3) An act or thing done in relation to the Comptroller-General of Customs under a law of the Commonwealth in force immediately before this Act receives the Royal Assent has effect, on and after that day, as if it were an act or thing done in relation to the Chief Executive Officer of Customs under that law.

(4) Any proceedings begun by or against the Comptroller-General of Customs in a court or tribunal and not finally determined before the day on which this Act receives the Royal Assent have effect, on and after that day, as if they were proceedings brought by or against the Chief Executive Officer of Customs.

**Transitional—references in any law of the Commonwealth to the Collector of Customs for a State or Territory etc.**

**19.(1)** A reference:

(a) in any law of the Commonwealth in force immediately before the day on which this Act receives the Royal Assent; or

(b) in any instrument made under such a law;

to the Collector of Customs for a State or Territory (however described) is taken, on and after that day, to be a reference to the Regional Director for that State or Territory.

(2) An act or thing done by the Collector of Customs for a State or Territory in the exercise, or purported exercise, of a power conferred under any law of the Commonwealth in force immediately before the day on which

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

this Act receives the Royal Assent is taken, on and after that day, to be an act or thing done by the Regional Director for that State or Territory in the exercise, or purported exercise, of that power.

(3) An act or thing done in relation to the Collector of Customs for a State or Territory under a law of the Commonwealth in force immediately before this Act receives the Royal Assent has effect, on and after that day, as if it were an act or thing done in relation to the Regional Director for that State or Territory under that law.

(4) Any proceedings begun by or against the Collector of Customs for a State or Territory in a court or tribunal and not finally determined before the day on which this Act receives the Royal Assent have effect, on and after that day, as if they were proceedings brought by or against the Regional Director for that State or Territory.

**Saving provision concerning forfeited goods**

20.(1) Despite the amendments of the *Coal Excise Act 1949*, the *Commerce (Trade Descriptions) Act 1905*, the *Customs Act 1901*, the *Distillation Act 1901*, the *Excise Act 1901* and the *Spirits Act 1906* that are referred to in subsection (2), those Acts continue to have effect on and after 1 July 1995, in relation to any goods seized for the purposes of any of those Acts before that day, as if:

- (a) the amendments of all of those Acts referred to in subsection (2); and
- (b) the amendments of the *Administrative Decisions (Judicial Review) Act 1977* referred to in subsection (2);

had not been made.

(2) For the purposes of subsection (1), the relevant amendments are the amendments set out:

- (a) in respect of the *Coal Excise Act 1949*—in Schedule 2; and
- (b) in respect of the *Commerce (Trade Descriptions) Act 1905*—in Schedule 3; and
- (c) in respect of the *Customs Act 1901*—in items 1, 26 to 45, 49 to 53 and 56 and 67 of Schedule 4; and
- (d) in respect of the *Distillation Act 1901*—in Schedule 6; and
- (e) in respect of the *Excise Act 1901*—items 6 to 11 of Schedule 7; and
- (f) in respect of the *Spirits Act 1906*—in Schedule 8; and
- (g) in respect of the *Administrative Decisions (Judicial Review) Act 1977*—in items 1 and 2 of Schedule 10.

(3) For the purposes of the continued operation of those Acts in accordance with subsection (1):

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

- (a) the CEO has all of the powers, functions and duties which, under those provisions as so preserved, are given to or imposed on the Comptroller-General of Customs; and
- (b) the Regional Director for a State or Territory has all of the powers, functions and duties which, under those provisions as so preserved, are given to or imposed on a Collector of Customs for a State or Territory.

**Repeals**

**21.** The following Acts are repealed:

*Bounty (Ship Repair) Act 1986;*

*Bounty (Ships) Act 1980;*

*Customs Tariff (New Zealand Preference) Agreement Act 1933.*

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*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 1**

Section 3

**AMENDMENTS OF THE BOUNTY (FUEL ETHANOL) ACT 1994**

**1. Subsection 28(1):**

Omit “subsection (2)”, substitute “subsections (2), (3) and (4)”.

**2. Subsection 28(2):**

Omit the subsection (including the example), substitute:

“(2) If an amount available for payment of bounty in year 1 or year 2 is not all paid out in respect of bountiable fuel ethanol produced in that year, it is the intention of the Parliament that the amount available in the year following that year be increased by the amount not so paid out.

“(3) The amount available for payment of bounty specified under subsection (1) in respect of bountiable fuel ethanol produced in a bounty year is reduced by an amount that represents the cost of administering this Act for that bounty year.

“(4) The amount that represents the cost of administering this Act in respect of a bounty year is the amount set out in the following table:

<b>Bounty year</b>	<b>Cost of administering this Act</b> <b>\$</b>
year 1	177,000
year 2	177,000
year 3	262,000

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*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 2**

Section 4

**AMENDMENTS OF THE COAL EXCISE ACT 1949**

**1. Section 25:**

Add at the end:

“(2) Without limiting the generality of the power conferred on the CEO under subsection 4(4) of the *Customs Administration Act 1985*, the CEO may give directions in writing under that subsection concerning:

- (a) the circumstances in which the powers under this section may be exercised; and
- (b) the officers of Customs who are entitled to exercise those powers; and
- (c) the manner and frequency of reporting to the CEO concerning the exercise of those powers.

“(3) A direction given for the purposes of subsection (2) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.”.

**2. Subsection 26(2):**

Omit the subsection.

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*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 3**

Section 5

**AMENDMENTS OF THE COMMERCE (TRADE DESCRIPTIONS)  
ACT 1905**

**1. Section 5:**

Add at the end:

“(4) Without limiting the generality of the power conferred on the CEO under subsection 4(4) of the *Customs Administration Act 1985*, the CEO may give directions in writing under that subsection concerning:

- (a) the circumstances in which the powers under this section may be exercised; and
- (b) the officers of Customs who are entitled to exercise those powers; and
- (c) the manner and frequency of reporting to the CEO concerning the exercise of those powers.

“(5) A direction given for the purposes of subsection (4) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.”.

**2. Subsections 7(2) and (3):**

Omit the subsections, substitute:

“(2) Subject to subsection (3), goods imported in contravention of any regulation made for the purposes of subsection (1) are forfeited to the Crown.

“(3) If the CEO is satisfied that the contravention was not intentional or reckless:

- (a) the CEO may, by notice in writing given to the owner or importer of the goods concerned, require the owner or importer:
  - (i) to apply the prescribed trade description; or
  - (ii) to export the goods;within a period specified in the notice; and
- (b) if the owner or importer complies with the notice, subsection (2) does not apply in respect of the goods.”.

**3. Subsection 7(4):**

Omit “under”, substitute “made for the purposes of”.

**4. Section 10:**

Repeal the section, substitute:

**Forfeiture of falsely marked goods**

“10.(1) Goods to which a false trade description is applied are prohibited to be imported.

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 3—continued**

“(2) Subject to subsection (3), goods imported in contravention of subsection (1) are forfeited to the Crown.

“(3) If the CEO is satisfied that the contravention was not intentional or reckless:

- (a) the CEO may, by notice in writing given to the owner or importer of the goods concerned, require the owner or importer to correct the false trade description within a period specified in the notice; and
- (b) if the owner or importer complies with the notice, subsection (2) does not apply in respect of the goods.”.

**5. Subsections 11(2) and (3):**

Omit the subsections, substitute:

“(2) Subject to subsection (3), goods to which the prescribed trade description has not been applied that are entered for export, put on board any ship for export or brought to any wharf or place for export, are forfeited to the Crown.

“(3) If the CEO is satisfied that the entry for export, putting on board a ship for export, or bringing to a wharf or place for export, of goods to which the prescribed trade description had not been applied was not intentional or reckless:

- (a) the CEO may, by notice in writing given to the owner or exporter of the goods concerned, require the owner or exporter:
  - (i) to apply the prescribed trade description to the goods before the exportation of the goods and within a period specified in the notice; or
  - (ii) to withdraw that entry, to remove the goods from that ship, or to remove the goods from that wharf or place, as the case requires, within the period so specified; and
- (b) if the owner or exporter complies with the notice, subsection (2) does not apply in respect of the goods.”.

**6. Section 13:**

Repeal the section, substitute:

**Exportation of falsely marked goods**

“13.(1) Goods to which any false trade description is applied are prohibited to be exported.

“(2) Subject to subsection (3), goods to which a false trade description has been applied that are entered for export, put on board any ship for export or brought to any wharf or place for export, are forfeited to the Crown.

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 3—continued**

“(3) If the CEO is satisfied that entry for export, putting on board a ship for export or bringing to a wharf or place for export, of goods to which a false trade description has been applied was not intentional or reckless:

- (a) the CEO may, by notice in writing given to the owner or exporter of the goods concerned, require the owner or exporter:
  - (i) to correct the false trade description before the exportation of those goods and within a period specified in the notice; or
  - (ii) to withdraw that entry, to remove the goods from that ship, or to remove the goods from that wharf or place, as the case requires, within the period so specified; and
- (b) if the owner or exporter complies with the notice, subsection (2) does not apply in respect of the goods.”.

**7. Section 15:**

Repeal the section, substitute the following section and note:

**Review of decisions**

“15.(1) Applications can be made to the Administrative Appeals Tribunal for review of decisions of the CEO under subsection 7(3), 10(3), 11(3) or 13(3).

“(2) In this section:

**‘decision’** has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

Note: Subsection 3(3) of the *Administrative Appeals Tribunal Act 1975* extends the ordinary meaning of decision.”.

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**SCHEDULE 4**

Section 6

**AMENDMENTS OF THE CUSTOMS ACT 1901**

- 1. Subsection 4(1) (definition of “Protected object”):**  
Omit “203A”, substitute “203T”.
- 2. Subsection 8(1):**  
Omit the subsection, substitute:  
“(1) In this Act:  
(a) a reference to the Collector, or to a Collector, is a reference to:  
    (i) the CEO; or  
    (ii) the Regional Director for a State or Territory; or  
    (iii) any officer doing duty in the matter in relation to which the expression is used; and  
(b) a reference to the Regional Director, or to a Regional Director, for a State or Territory is a reference to the principal officer of Customs for that State or Territory.”.
- 3. Paragraph 71B(4)(b):**  
After “a payment” insert “is made”.
- 4. Subsection 71D(7):**  
Omit all the words after “the entry”, substitute:  
“must not be granted unless:  
(d) the requirement referred to in paragraph (a) has been complied with or withdrawn; or  
(e) the question referred to in paragraph (b) has been answered or withdrawn; or  
(f) the requirement referred to in paragraph (c) has been complied with or withdrawn, or a security has been taken for compliance with the requirement;  
as the case requires”.
- 5. Subsection 71E(2A):**  
Omit “, or a registered COMPILE user,”.
- 6. Subsection 71E(3):**  
After “writing” insert “in respect of a documentary movement application under subsection (2), or by computer transmission using a cargo automation system in respect of a computer movement application under subsection (2A)”.

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 4—continued**

**7. Subsection 71L(1):**

Omit “or 70(7)”, substitute “, 70(7) or 77D(5)”.

**8. Subsection 71L(2):**

Omit “or 70(7)”, substitute “, 70(7) or 77D(5)”.

**9. Section 77C:**

Repeal the section, substitute:

**Contingency arrangements to apply when the COMPILE computer system is down**

“77C.(1) The contingency arrangements set out in sections 77D and 77E:

- (a) only apply if the CEO declares, in writing, that they are to apply; and
- (b) only cease to apply if the CEO declares, in writing, that they cease to apply.

“(2) The COMPILE computer system is inoperative if:

- (a) registered COMPILE users cannot transmit to Customs import entries; or
- (b) Customs cannot transmit to registered COMPILE users import entry advices; or
- (c) Customs cannot transmit to registered COMPILE users authorities to take goods into home consumption or to warehouse them.

“(3) If the COMPILE computer system is inoperative, the CEO may declare, in writing, that the contingency arrangements apply.

“(4) If:

- (a) the CEO has declared, in writing, that the contingency arrangements apply; and
- (b) the COMPILE computer system becomes operative again;

the CEO may declare, in writing, that the contingency arrangements cease to apply.

“(5) If the CEO makes a declaration under subsection (3) or (4), the CEO must communicate the declaration, in a prescribed manner, to all registered COMPILE users.

**Contingency arrangements for goods not subject of an import entry advice**

“77D.(1) If, while a declaration that contingency arrangements apply is in force:

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

- (a) a registered COMPILE user cannot enter for home consumption or warehousing goods imported or proposed to be imported; or
- (b) Customs cannot transmit to a registered COMPILE user an import entry advice in respect of goods so imported or proposed to be imported;

the user may apply to Customs, in writing, for permission to take the goods into home consumption, or to warehouse them.

“(2) An application must:

- (a) be in an approved form; and
- (b) include such information as the approved form requires; and
- (c) be signed in the manner indicated in the approved form.

“(3) Subject to subsection (4), an officer of Customs may, on receipt of an application, by notice in writing:

- (a) grant permission for the goods to which the application relates to be taken into home consumption, or to be warehoused; or
- (b) refuse to grant such a permission and set out in the notice the reasons for so refusing.

“(4) A permission granted in respect of such goods is subject to any condition specified in the permission that Customs considers appropriate.

“(5) If permission is granted in respect of such goods, the registered COMPILE user to whom the permission is granted must not without reasonable excuse fail to:

- (a) give Customs a return:
  - (i) by the end of the working day next following the day on which the CEO declares that the contingency arrangements cease to apply; or
  - (ii) within such longer period as is specified in the permission; providing particulars in accordance with section 71L in respect of the goods; and
- (b) at the time when the return is given to Customs, pay any duty, sales tax or other charge owing at the rate applicable at the time the permission is granted; and
- (c) comply with any condition to which the permission is subject.

Penalty: 50 penalty units.



*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

“(6) If:

- (a) an officer of Customs is satisfied that a registered COMPILE user to whom a permission has been granted under this section in respect of goods has failed to comply with any of the conditions to which the permission is subject; and
- (b) all or any of the goods have not been taken into home consumption or warehoused in accordance with the permission;

the officer may, at any time before those goods are taken into home consumption or warehoused, by notice in writing, revoke the permission and set out in the notice the reasons for the revocation.

“(7) If:

- (a) an application has been delivered to Customs in respect of goods; and
- (b) before an officer of Customs has decided whether or not to grant permission for the goods to be taken into home consumption or to be warehoused, the CEO declares, in writing, that the contingency arrangements cease to apply;

the application is taken to have been withdrawn.

**Contingency arrangements for goods the subject of an import entry advice**

“77E.(1) If, while a declaration that contingency arrangements apply is in force, a registered COMPILE user:

- (a) has received an import entry advice in respect of goods; but
- (b) has not received an authority to take the goods into home consumption or to warehouse them;

the user may apply to Customs, in writing, for permission to take the goods into home consumption or to warehouse them.

“(2) An application must:

- (a) be in an approved form; and
- (b) include such information as the approved form requires; and
- (c) be signed in the manner indicated in the approved form; and
- (d) if, at the time of making an application, the user had been required under subsection 71D(2) to give Customs commercial documents or additional information but had not complied with that requirement—be accompanied by the commercial documents or additional information so required.

“(3) Subject to subsection (4), an officer of Customs may, on receipt of an application, by notice in writing:

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

- (a) grant permission for the goods to which the application relates to be taken into home consumption or to be warehoused; or
- (b) refuse to grant such a permission and set out in the notice the reasons for so refusing.

“(4) A permission granted in respect of such goods is subject to any condition, specified in the permission, that Customs considers appropriate.

“(5) If permission is granted in respect of such goods, the registered COMPILE user to whom the permission is granted must not without reasonable excuse fail to:

- (a) comply with any condition to which the permission is subject; and
- (b) if, at the time of making an application, the user had not paid any duty, sales tax or other charge owing in relation to the goods—by the end of the working day next following the day on which the CEO declares that the contingency arrangements cease to apply, pay any duty, sales tax or other charge owing at the rate applicable at the time the permission is granted.

Penalty: 50 penalty units.

“(6) If:

- (a) an officer of Customs is satisfied that a registered COMPILE user to whom a permission has been granted under this section has failed to comply with any of the conditions to which the permission is subject; and
- (b) all or any of the goods have not been taken into home consumption or warehoused in accordance with the permission;

the officer may, at any time before the user takes those goods into home consumption or warehouses them, by notice in writing, revoke the permission and set out in the notice the reasons for the revocation.

“(7) If:

- (a) an application has been delivered to Customs in respect of goods; and
- (b) before an officer of Customs has decided whether or not to grant permission for the goods to be taken into home consumption or to be warehoused, the CEO declares, in writing, that the contingency arrangements cease to apply;

the application is taken to have been withdrawn and Customs must deal with the computer import entry, transmitted by the registered COMPILE user who provided the application to Customs, in the normal manner.”.

**10. Subsection 96A(1) (definition of “relevant traveller”):**

Omit the definition, substitute:

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

“ **‘relevant traveller’** means a person:

- (a) who intends to make an international flight, whether as a passenger on, or as a pilot or member of the crew of, an aircraft; or
- (b) who intends to make an international voyage, whether as a passenger on, or as the master or a member of the crew of, a ship.”

**11. Subsection 96A(1):**

Insert:

“ **‘international voyage’** means a voyage, whether direct or indirect, by a ship between a place in Australia and a place outside Australia;”.

**12. Paragraph 96A(2)(a):**

Insert “or voyage” after “flight”.

**13. Paragraph 96A(2)(b):**

Insert “or voyage” after “flight”.

**14. Paragraph 96A(7)(b):**

Insert “or voyage” after “flight”.

**15. Subsection 117A(1):**

Omit “in the exportation of goods otherwise than as the master or owner of the ship, or the pilot or owner of the aircraft, in which those goods are to be exported, may”, substitute “in the consolidation of cargo for exportation by a ship or aircraft must”.

**16. Subsection 153D(1):**

Omit the subsection, substitute:

*General rule for determining allowable expenditure of a factory on materials*

“(1) Subject to the exceptions set out in this section, the allowable expenditure of a factory on materials in respect of preference claim goods is the cost to the manufacturer of those materials in the form they are received at the factory, worked out under section 153E.”.

**17. Subsection 153D(3):**

Omit the subsection, substitute:

*Inland freight rule*

“(3) If:

- (a) preference claim goods are manufactured, in whole or in part, from particular materials; and

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

- (b) the preference country is Papua New Guinea or a Forum Island Country; and
  - (c) those particular materials:
    - (i) were imported into the preference country from a country outside the qualifying area; or
    - (ii) incorporate other materials (**‘contributing materials’**) imported into the preference country from a country outside the qualifying area;
- then, despite subsection (2), the allowable expenditure of the factory on those particular materials includes:
- (d) the cartage of those particular materials; or
  - (e) the part of the cost of those particular materials that is attributable to the cartage of those contributing materials;
- from the port or airport in the preference country where those particular materials or contributing materials are first landed to the factory or to the plant where they are processed or first processed.”.

**18. Paragraph 153D(6)(b):**

Omit the paragraph, substitute:

- “(b) the allowable expenditure of the factory on those particular materials, after excluding any costs required to be excluded under subsection (4), would be at least 50% of the total expenditure of the factory on those particular materials, worked out in accordance with section 153C;”.

**19. After subsection 153D(6):**

Insert:

*Goods claimed to be the manufacture of Papua New Guinea or a Forum Island Country—special rule*

“(6A) If:

- (a) goods claimed to be the manufacture of Papua New Guinea or a particular Forum Island Country are manufactured, in whole or in part, from particular materials; and
- (b) if the qualifying area for that country consisted only of that country and Australia—under subsection (4), the allowable expenditure of the factory on those particular materials, after excluding any costs required to be excluded under subsection (4), would be at least 50% of the total expenditure of the factory on those particular materials worked out in accordance with section 153C;

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

then, despite subsection (4), the allowable expenditure of the factory on those particular materials is taken to be that total expenditure.”.

**20. Subsection 153E(4):**

Omit the subsection, substitute:

“(4) If the CEO is satisfied that preference claim goods consist partly of materials added or attached solely for the purpose of artificially raising the allowable factory cost of the goods, the CEO may, by written notice given to the importer of the preference claim goods, require the part of that cost that is, in the CEO’s opinion, reasonably attributable to those materials, to be disregarded.”.

**21. Paragraph 153K(1)(a):**

Omit “originate in”, substitute “be the manufacture of”.

**22. Paragraph 153L(2)(b):**

Omit the paragraph, substitute:

“(b) having regard to their qualifying area, their allowable factory cost is not less than the specified percentage of their total factory cost.”.

Note: The heading to subsection 153L(2) is altered by omitting “*if qualifying area does not include New Zealand*”.

**23. Subsection 153L(3):**

Omit the subsection.

**24. Subsection 153L(4):**

Omit “or (3)”.

**25. After section 153L:**

Insert:

**Modification of section 153L in special circumstances**

*When 50% in subsection 153L(4) can be read as 48%*

“153LA.(1) If the CEO is satisfied:

- (a) that the allowable factory cost of preference claim goods in a shipment of such goods that are claimed to be the manufacture of Papua New Guinea or a Forum Island Country is at least 48% but not 50% of the total factory cost of those goods; and
- (b) that the allowable factory cost of those goods would be at least 50% of the total factory cost of those goods if an unforeseen circumstance had not occurred; and

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

- (c) that the unforeseen circumstance is unlikely to continue;  
the CEO may determine, in writing, that section 153L has effect:
- (d) for the purpose of the shipment of goods that is affected by that unforeseen circumstance; and
- (e) for the purposes of any subsequent shipment of similar goods that is so affected during a period specified in the determination;  
as if the reference in subsection 153L(4) to 50% were a reference to 48%.

*Effect of determination*

“(2) If the CEO makes a determination, then, in relation to all preference claim goods imported into Australia that are covered by the determination, section 153L has effect in accordance with the determination.

*CEO may revoke determination*

- “(3) If:
- (a) the CEO makes a determination; and
  - (b) the CEO becomes satisfied that the unforeseen circumstance giving rise to the determination no longer continues;
- the CEO may, by written notice, revoke the determination despite the fact that the period referred to in the determination has not ended.

*Definition of “similar goods”*

- “(4) In this section:
- ‘similar goods’**, in relation to goods in a particular shipment, means goods:
- (a) that are contained in another shipment that is imported by the same importer; and
  - (b) that undergo the same process or processes of manufacture as the goods in the first-mentioned shipment.”.

**26. After the heading to Division 1 of Part XII:**

Insert the following Subdivision and Subdivision heading:

***“Subdivision A—Preliminary***

**Definitions**

“183UA.(1) In this Division, unless the contrary intention appears:  
**‘authorised person’** means:

- (a) in relation to an application for, or for the execution of, a search warrant—an officer of Customs; and

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

- (b) in relation to an application for, or for the execution of, a seizure warrant in respect of goods referred to in paragraph (a) of the definition of ‘forfeited goods’:
  - (i) an officer of Customs; or
  - (ii) an officer of police; or
  - (iii) a member of the Defence Force; and
- (c) in relation to an application for, or for the execution of, a seizure warrant in respect of goods referred to in paragraphs (b), (c), (d), (e) and (f) of the definition of ‘forfeited goods’—an officer of Customs; and
- (d) in relation to the exercise of powers under section 203B or 203C:
  - (i) an officer of Customs; or
  - (ii) an officer of police; or
  - (iii) a member of the Defence Force;

**‘baggage’** means goods:

- (a) that are carried by or for a traveller, including the captain and crew members, on board the same ship or aircraft as the traveller; or
- (b) that a traveller intended to be so carried;

**‘container’** includes:

- (a) a trailer or other like receptacle, whether with or without wheels, that is used for the movement of goods from one place to another; and
- (b) any baggage that is or could be used for the enclosure of other baggage;

**‘conveyance’** means an aircraft, railway rolling stock, vehicle or vessel of any kind;

**‘Customs place’** means:

- (a) a port, airport or wharf that is appointed, and the limits of which are fixed, under section 15; or
- (b) a place that is the subject of a permission under subsection 58(2); or
- (c) a boarding station that is appointed under section 15; or
- (d) a place that is appointed under paragraph 17(b); or
- (e) a place described in a licence for warehousing goods that is granted under subsection 79(1); or
- (f) a place that is approved, in writing, by the CEO as a place for the examination of international mail;

Note: Subsection (2) provides for parliamentary disallowance of an instrument approving a place under paragraph (f) of the definition.

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

**‘evidential material’**, in relation to an offence, whether the offence is indictable or summary, means a thing relevant to the offence, including such a thing in electronic form;

**‘executing officer’**, in relation to a search warrant or to a seizure warrant, means:

- (a) an authorised person named in the warrant by the judicial officer issuing it as being responsible for executing the warrant; or
- (b) if that authorised person does not intend to be present at the execution of the warrant—any authorised person whose name has been written in the warrant by the authorised person so named; or
- (c) another authorised person whose name has been written in the warrant by the authorised person last named in the warrant;

**‘forfeited goods’** means goods described as forfeited to the Crown under:

- (a) section 228, 228A, 228B, 229, 229A or 230 of this Act; or
- (b) section 26 of the *Coal Excise Act 1949*; or
- (c) section 7, 10, 11 or 13 of the *Commerce (Trade Descriptions) Act 1905*; or
- (d) section 73 of the *Distillation Act 1901*; or
- (e) section 116 of the *Excise Act 1901*; or
- (f) section 17 of the *Spirits Act 1906*;

**‘frisk search’** means:

- (a) a search of a person conducted by quickly running the hands over the person’s outer garments; and
- (b) an examination of anything worn or carried by the person that is conveniently and voluntarily removed by the person;

**‘judicial officer’**, in relation to a search warrant or to a seizure warrant, means:

- (a) a magistrate; or
- (b) a justice of the peace or other person employed in a court of a State or Territory who is authorised to issue search warrants;

**‘magistrate’** means a magistrate who is remunerated by salary or otherwise;

**‘occupier’**, in relation to premises that are a conveyance or a container, means the person having charge of the conveyance or container;

**‘offence’** means an offence against:

- (a) this Act; or
- (b) the *Coal Excise Act 1949*; or
- (c) the *Commerce (Trade Descriptions) Act 1905*; or
- (d) the *Distillation Act 1901*; or



*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

(e) the *Excise Act 1901*; or

(f) the *Spirits Act 1906*;

**‘ordinary search’** means a search of a person or of articles in the possession of a person that may include:

(a) requiring the person to remove his or her overcoat, coat or jacket and any gloves, shoes or hat; and

(b) an examination of those items;

**‘person assisting’**, in relation to a search warrant or to a seizure warrant, means:

(a) a person who is an authorised person and who is assisting in the execution of the warrant; or

(b) a person who is not an authorised person and who has been authorised by the CEO or by a Regional Director for a State or Territory to assist in executing the warrant;

**‘premises’** includes a place, a conveyance or a container;

**‘search warrant’** means a warrant issued under section 198;

**‘seizure notice’** means a notice of the kind referred to in section 205A;

**‘seizure warrant’** means a warrant issued under section 203;

**‘special forfeited goods’** means forfeited goods that are referred to in paragraph 229(1)(b) or (n);

**‘warrant premises’** means premises in relation to which a search warrant or a seizure warrant is in force.

“(2) An instrument of approval of a place as a place for the examination of international mail is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

**Law relating to legal professional privilege not affected**

“183UB. This Division does not affect the law relating to legal professional privilege.

**CEO may give directions concerning the exercise of powers under this Division**

“183UC.(1) Without limiting the generality of the power conferred on the CEO under subsection 4(4) of the *Customs Administration Act 1985*, the CEO may give directions in writing under that subsection concerning:

(a) the circumstances in which the powers in this Division may be exercised; and

(b) the officers of Customs who are entitled to exercise those powers; and

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

(c) the manner and frequency of reporting to the CEO concerning the exercise of those powers.

“(2) A direction given for the purposes of subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

**“Subdivision B—General regulatory powers”.**

**27. After paragraph 185(2)(b):**

Insert:

“(ba) secure any goods found on the ship or aircraft;”.

**28. Sections 197, 197A, 198, 199, 200, 201, 202 and 203:**

Repeal the sections, substitute the following section, Subdivisions and Subdivision heading:

**Power to stop conveyances about to leave a Customs place**

“197.(1) If a conveyance is about to leave a Customs place, an officer of Customs may:

- (a) require the conveyance to stop; and
- (b) check to establish that there is appropriate documentation authorising the movement from the Customs place of any goods in or on the conveyance that are subject to the control of Customs within the meaning of section 30.

“(2) For the purposes of subsection (1), an officer of Customs may question the person apparently in charge of the conveyance about any goods in, on, or in a container on, the conveyance.

“(3) The power in paragraph (1)(b) includes a power to give directions relating to:

- (a) the unloading of any goods from the conveyance; or
- (b) their movement to a particular part of the Customs place for further examination.

“(4) If a direction under subsection (3) is not complied with, an officer of Customs may do what is necessary to give effect to the direction or to arrange for it to be done.

“(5) An officer of Customs must not detain a conveyance under this section for longer than is necessary and reasonable to exercise the powers conferred by this section.

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 4—continued**

***“Subdivision C—Search warrants in respect of things believed to be evidential material***

**When search warrants can be issued**

“198.(1) A judicial officer may issue a warrant to search premises if the judicial officer is satisfied by information on oath that there are reasonable grounds for suspecting that there is, or within the next 72 hours there will be, any evidential material, other than evidential material that is also a forfeited good, on or in the premises.

“(2) If:

- (a) the person applying for the warrant has, at any time previously, applied for a warrant relating to the search of, or the seizure of goods that are on or in, the same premises; and
- (b) the premises are not a Customs place;

the person must state particulars of those applications and their outcome in the information.

“(3) If a judicial officer issues a warrant, the judicial officer is to state in the warrant:

- (a) the offence to which the warrant relates; and
- (b) a description of the premises to which the warrant relates; and
- (c) the kind of evidential material that is to be searched for under the warrant; and
- (d) the name of the authorised person who, unless he or she inserts the name of another authorised person in the warrant, is to be responsible for executing the warrant; and
- (e) the period for which the warrant remains in force, which must not be more than 7 days; and
- (f) whether the warrant may be executed at any time or only during particular hours.

“(4) The judicial officer is also to state in the warrant:

- (a) that it authorises the seizure of things (other than evidential material of the kind referred to in paragraph (3)(c)) found on or in the premises in the course of the search that the executing officer or a person assisting believes on reasonable grounds:
  - (i) to be evidential material in relation to an offence to which the warrant relates or to another offence; and
  - (ii) not to be forfeited goods;

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

if the executing officer or person assisting believes on reasonable grounds that seizure of the things is necessary to prevent their concealment, loss or destruction or their use in committing an offence; and

- (b) whether the warrant authorises an ordinary search or a frisk search of a person who is at or near the premises when the warrant is executed, if the executing officer or a person assisting suspects on reasonable grounds that the person has any evidential material in his or her possession.

“(5) Paragraph (3)(e) does not prevent the issue of successive warrants in relation to the same premises.

“(6) If the application for the warrant is made under section 203M, this section applies as if:

- (a) subsection (1) referred to 48 hours rather than 72 hours; and
- (b) paragraph (3)(e) referred to 48 hours rather than 7 days.

“(7) A judicial officer of a particular State or Territory may issue a warrant in respect of the search of premises in another State or Territory.

“(8) This section is not to be taken to limit any power of search granted to an officer of Customs under any other provision of a law of Customs or Excise within the meaning of the *Customs Administration Act 1985*.

**The things that are authorised by a search warrant**

“199.(1) A search warrant that is in force in relation to premises authorises the executing officer or a person assisting:

- (a) to enter the warrant premises; and
- (b) to search for and to record fingerprints found on or in the premises, and take samples of things (other than human biological fluid or tissue) found on or in the premises for forensic purposes; and
- (c) to search the premises for the kind of evidential material specified in the warrant, and to seize things of that kind found on or in the premises; and
- (d) to seize other things found on or in the premises in the course of the search that the executing officer or a person assisting believes on reasonable grounds:
  - (i) to be evidential material in relation to an offence to which the warrant relates or to another offence; and
  - (ii) not to be forfeited goods;

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

if the executing officer or person assisting believes on reasonable grounds that seizure of the things is necessary to prevent their concealment, loss or destruction or their use in committing an offence; and

(e) if the warrant so allows:

(i) to conduct an ordinary search or a frisk search of a person at or near the premises if the executing officer or a person assisting suspects on reasonable grounds that the person has any evidential material in his or her possession; and

(ii) to seize any such material found in the course of the search.

“(2) Without limiting the generality of the powers conferred by a warrant issued in respect of premises that are not a conveyance or a container, the warrant extends to every conveyance or container on the premises.

“(3) Without limiting the generality of the powers conferred by a warrant issued in respect of premises that are a conveyance, the warrant:

(a) permits entry of the conveyance, wherever it is; and

(b) extends to every container on the conveyance.

“(4) A warrant issued in respect of premises that are a container permits entry of the container, wherever it is, to the extent that it is of a size permitting entry.

“(5) If the warrant states that it may be executed only during particular hours, the warrant must not be executed outside those hours.

“(6) If the warrant authorises an ordinary search or a frisk search of a person, a search of the person different to that so authorised must not be done under the warrant.

**Use of equipment to examine or process things**

“200.(1) The executing officer or a person assisting may bring to the warrant premises any equipment reasonably necessary for the examination or processing of things found on or in the premises in order to determine whether they are things that may be seized under the warrant.

“(2) If:

(a) it is not practicable to examine or process the things on or in the warrant premises; or

(b) the occupier of the premises consents in writing;

the things may be moved to another place so that the examination or processing can be carried out in order to determine whether they are things that may be seized under the warrant.

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

“(3) If things are moved to another place for the purpose of examination or processing under subsection (2), the executing officer must, if it is practicable to do so:

- (a) inform the occupier of the address of the place and the time at which the examination or processing will be carried out; and
- (b) allow the occupier or his or her representative to be present during the examination or processing.

“(4) The executing officer or a person assisting may operate equipment already on or in the warrant premises to carry out the examination or processing of a thing found on or in the premises in order to determine whether it is a thing that may be seized under the warrant if the executing officer or person assisting believes on reasonable grounds that:

- (a) the equipment is suitable for the examination or processing; and
- (b) the examination or processing can be carried out without damage to the equipment or the thing.

**Use of electronic equipment on or in premises**

“201.(1) The executing officer or a person assisting may operate electronic equipment on or in the premises to see whether evidential material is accessible by doing so if he or she believes on reasonable grounds that the operation of the equipment can be carried out without damage to the equipment.

“(2) If the executing officer or a person assisting, after operating the equipment, finds that evidential material is accessible by doing so, he or she may:

- (a) seize the equipment and any disk, tape or other associated device; or
- (b) if the material can, by using facilities on or in the premises, be put in documentary form—operate the facilities to put the material in that form and seize the documents so produced; or
- (c) if the material can be transferred to a disk, tape or other storage device that:
  - (i) is brought to the premises; or
  - (ii) is on or in the premises and the use of which for that purpose has been agreed to in writing by the occupier of the premises;operate the equipment to copy the material to the storage device and take the storage device from the premises.

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

“(3) The executing officer or a person assisting may seize equipment under paragraph (2)(a) only if it is not practicable to put the material in documentary form as mentioned in paragraph (2)(b) or to copy the material as mentioned in paragraph (2)(c).

“(4) If the executing officer or a person assisting believes on reasonable grounds that:

- (a) evidential material may be accessible by operating electronic equipment on or in the premises; and
- (b) expert assistance is required to operate the equipment; and
- (c) if he or she does not take action under this subsection, the material may be destroyed, altered or otherwise interfered with;

he or she may do whatever is necessary to secure the equipment, whether by locking it up, placing a guard or otherwise.

“(5) The executing officer or a person assisting must give notice to the occupier of the premises of his or her intention to secure equipment and of the fact that the equipment may be secured for up to 24 hours.

“(6) The equipment may be secured:

- (a) for a period not exceeding 24 hours; or
- (b) until the equipment has been operated by the expert;

whichever first occurs.

“(7) If the executing officer or a person assisting believes on reasonable grounds that the expert assistance will not be available within 24 hours, he or she may apply to a judicial officer for an extension of that period.

“(8) The executing officer or a person assisting must give notice to the occupier of the premises of his or her intention to apply for an extension, and the occupier is entitled to be heard in relation to the application.

“(9) The provisions of this Subdivision relating to the issue of warrants apply, with such modifications as are necessary, to the issuing of an extension.

**Compensation for damage to equipment or data**

“202.(1) If:

- (a) damage is caused to equipment as a result of it being operated as mentioned in section 200 or 201; or
- (b) the data recorded on the equipment is damaged or programs associated with its use are damaged or corrupted;

and the damage or corruption was caused as a result of:

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 4—continued**

- (c) insufficient care being exercised in selecting the person who was to operate the equipment; or
- (d) insufficient care being exercised by the person operating the equipment;

compensation for the damage or corruption is payable to the owner of the equipment or the user of the data or programs concerned.

“(2) For the purposes of subsection (1), damage to data includes damage by erasure of data or addition of other data.

“(3) Compensation is payable out of money appropriated by the Parliament for the purpose.

“(4) In determining the amount of compensation payable, regard is to be had to whether the occupier of the premises and his or her employees and agents, if they were available at the time, had provided any warning or guidance as to the operation of the equipment that was appropriate in the circumstances.

**Copies of seized things to be provided**

“202A.(1) Subject to subsection (2), if the executing officer or a person assisting seizes, under a warrant relating to premises:

(a) a document, film, computer file or other thing that can be readily copied; or

(b) a storage device, the information in which can be readily copied; the executing officer or person assisting must, if requested to do so by the occupier of the premises or another person who apparently represents the occupier and who is present when the warrant is executed, give a copy of the document, film, computer file, thing or information to that person as soon as practicable after the seizure.

“(2) Subsection (1) does not apply if:

(a) the thing that has been seized was seized under paragraph 201(2)(b) or (c); or

(b) possession by the occupier of the document, film, computer file, thing or information could constitute an offence.

***“Subdivision D—Seizure of goods believed to be forfeited goods***

**When seizure warrants can be issued**

“203.(1) A judicial officer may issue a warrant to seize goods on or in particular premises if the judicial officer is satisfied by information on oath that an authorised person:



*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

- (a) has reasonable grounds for suspecting that the goods:
  - (i) are forfeited goods; and
  - (ii) are, or within the next 72 hours will be, on or in the premises;  
and
- (b) has demonstrated the necessity, in all the circumstances, for seizure of the goods.

“(2) Subsection (1) does not apply to the seizure of goods under section 203B or 203C.

“(3) In considering whether the authorised person has demonstrated the necessity, in all the circumstances, for seizure of the goods, the judicial officer may have regard to, but is not limited to, consideration of the following factors:

- (a) the seriousness or otherwise of any offence by reason of the commission of which the goods are believed to be forfeited goods;
- (b) the circumstances in which any such offence is believed to have been committed;
- (c) the pecuniary or other penalty that might be imposed for any such offence;
- (d) the nature, quality, quantity and estimated value of the goods;
- (e) whether administrative penalties might be imposed in respect of the goods;
- (f) the inconvenience or cost to any person having a legal or equitable interest in the goods if they were seized.

“(4) If:

- (a) the person applying for the warrant has, at any time previously, applied for a warrant relating to the search of, or seizure of goods that are on or in, the same premises; and
- (b) the premises are not a Customs place;

the person must state particulars of those applications and their outcome in the information.

“(5) If a judicial officer issues a warrant, the judicial officer is to state in the warrant:

- (a) a description of the goods to which the warrant relates; and
- (b) a description of the premises on or in which the goods are believed to be located; and
- (c) the name of the authorised person who, unless that authorised person inserts the name of another authorised person in the warrant, is to be responsible for executing the warrant; and

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

- (d) the period for which the warrant remains in force, which must not be more than 7 days; and
- (e) whether the warrant may be executed at any time or only during particular hours.

“(6) The judicial officer is also to state in the warrant:

- (a) that it authorises the seizure of goods (other than forfeited goods of the kind referred to in paragraph (5)(a)) found on or in the premises in the course of the search that the executing officer or a person assisting believes on reasonable grounds to be special forfeited goods; and
- (b) whether the warrant authorises an ordinary search or a frisk search of a person who is at or near the premises when the warrant is executed, if the executing officer or a person assisting suspects on reasonable grounds that the person has any forfeited goods of the kind referred to in paragraph (5)(a) or any special forfeited goods in his or her possession.

“(7) Paragraph (5)(d) does not prevent the issue of successive warrants in relation to the same premises.

“(8) If the application for the warrant is made under section 203M, this section applies as if:

- (a) subsection (1) referred to 48 hours rather than 72 hours; and
- (b) paragraph (5)(d) referred to 48 hours rather than 7 days.

“(9) A judicial officer of a particular State or Territory may issue a warrant in respect of the seizure of goods on or in premises in another State or Territory.

**The things that are authorised by seizure warrants**

“203A.(1) A seizure warrant that is in force in relation to premises authorises the executing officer or a person assisting:

- (a) to enter the warrant premises; and
- (b) to search for the goods described in the warrant; and
- (c) to seize the goods described in the warrant; and
- (d) to seize other goods:
  - (i) that are found on or in the premises in the course of searching for the goods the subject of the warrant; and
  - (ii) that the executing officer or a person assisting believes on reasonable grounds to be special forfeited goods; and
- (e) if the warrant so allows:

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 4—continued**

- (i) to conduct an ordinary search or a frisk search of a person at or near the premises if the executing officer or a person assisting suspects on reasonable grounds that the person has any goods that are goods the subject of the warrant or special forfeited goods in his or her possession; and
- (ii) to seize any such goods found in the course of that search.

“(2) Without limiting the generality of the powers conferred by a warrant issued in respect of premises that are not a conveyance or a container, the warrant extends to every conveyance or container on the premises.

“(3) Without limiting the generality of the powers conferred by a warrant issued in respect of premises that are a conveyance, the warrant:

- (a) permits entry of the conveyance, wherever it is; and
- (b) extends to every container on the conveyance.

“(4) A warrant issued in respect of premises that are a container permits entry of the container, wherever it is, to the extent that it is of a size permitting entry.

“(5) If the warrant states that it may be executed only during particular hours, the warrant must not be executed outside those hours.

“(6) If the warrant authorises an ordinary search or a frisk search of a person, a search of the person different to that so authorised must not be done under the warrant.

**Seizure without warrant of special forfeited goods, or of evidential material relating to special forfeited goods, at a Customs place**

“203B.(1) This section applies if an authorised person suspects on reasonable grounds that there are special forfeited goods:

- (a) at, or in a container at, a Customs place; or
- (b) in, on, or in a container on, a conveyance at a Customs place.

Note: Container has a special definition for the purposes only of this Division.

“(2) The authorised person may, without warrant:

- (a) search the Customs place, or the container at that place, for the special forfeited goods; or
- (b) stop and detain at the Customs place the conveyance and search it and any container on it for the special forfeited goods;

as the case requires, and seize the goods if the authorised person finds them there.

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 4—continued**

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

“(4) For the purposes of the search, 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.

**Seizure without warrant of narcotic goods or of evidential material relating to narcotic goods at other places**

“203C.(1) This section applies if:

- (a) an authorised person suspects on reasonable grounds that there are special forfeited goods that are narcotic goods:
  - (i) at, or in a container at, a place other than a Customs place; or
  - (ii) in, on, or in a container on, a conveyance at a place other than a Customs place; and
- (b) it is necessary to exercise a power under this section in order to prevent such goods from being concealed, lost or destroyed.

Note: Container has a special definition for the purposes only of this Division.

“(2) The authorised person, without warrant:

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

as the case requires, and seize the goods if the authorised person finds them there.

“(3) If, in the course of searching for special forfeited goods that are narcotic goods, an authorised person finds a thing that the authorised person 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 the search, 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.

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

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

**How an authorised person is to exercise a power under section 203B or 203C**

“203D.(1) An authorised person who exercises a power under section 203B or 203C in relation to a conveyance must not detain the conveyance for longer than is necessary and reasonable to search it and any container found on it.

“(2) An authorised person exercising a power under section 203B or 203C may use such force as is necessary and reasonable in the circumstances, but must not damage any place, conveyance or container unless:

- (a) the person (if any) apparently in charge of the place, conveyance or container has been given a reasonable opportunity to facilitate the search by providing access to or by opening the conveyance or container; or
- (b) it is not possible to give that person such an opportunity.

***“Subdivision E—Provisions applicable both to search and seizure warrants***

**Conduct of ordinary searches and frisk searches**

“203E. An ordinary search or a frisk search of a person under this Division must, if practicable, be conducted by a person of the same sex as the person being searched.

**Announcement before entry**

“203F.(1) The executing officer must, before any person enters premises under a search warrant or a seizure warrant:

- (a) announce that he or she is authorised to enter the premises; and
- (b) give any person at the premises an opportunity to allow entry to the premises.

“(2) The executing officer is not required to comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the premises is required to ensure:

- (a) the safety of a person (including the executing officer); or
- (b) that the effective execution of the warrant is not frustrated.

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 4—continued**

**Details of warrant to be given to occupier**

“203G.(1) If a search warrant or a seizure warrant in relation to premises is being executed and the occupier of the premises or another person who apparently represents the occupier is present at the place where the warrant is executed, the executing officer or a person assisting must make available to that person a copy of the warrant.

“(2) If a person is searched under a warrant in relation to premises, the executing officer or a person assisting must show the person a copy of the warrant.

“(3) The executing officer must identify himself or herself to the person at the place where the warrant is executed.

“(4) At the time of executing the warrant, the executing officer or a person assisting:

- (a) is not required to have in his or her possession or under his or her immediate control the original warrant; but
- (b) must have in his or her possession or under his or her immediate control a copy of the warrant.

“(5) In this section:

**‘a copy of the warrant’ means:**

- (a) in relation to a warrant issued under section 198 or 203—a copy that includes the signature of the judicial officer who issued the warrant and the seal of the relevant court; and
- (b) in relation to a warrant issued under section 203M—a completed form of warrant that includes the name of the judicial officer who issued the warrant.

**Occupier entitled to be present during search or seizure**

“203H.(1) If a search warrant or a seizure warrant in relation to premises is being executed and the occupier of the premises or another person who apparently represents the occupier is present at the place where the warrant is executed, the person is, subject to Part 1C of the *Crimes Act 1914*, entitled to observe the search or seizure being conducted.

“(2) The right to observe the search or seizure being conducted ceases if the person impedes the search or seizure.

“(3) This section does not prevent 2 or more areas of the premises being searched at the same time.

**Availability of assistance and use of force in executing a warrant**

“203J. In executing a search warrant or a seizure warrant:

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 4—continued**

- (a) the executing officer may obtain such assistance; and
- (b) the executing officer, or a person who is an authorised person and who is assisting in executing the warrant, may use such force against persons and things;

as is necessary and reasonable in the circumstances.

**Specific powers available to executing officers**

“203K.(1) In executing a search warrant or a seizure warrant in relation to premises, the executing officer or a person assisting may:

- (a) for a purpose incidental to the execution of the warrant; or
- (b) if the occupier of the premises consents in writing;

take photographs or video recordings of the premises or of things on or in the premises.

“(2) If a search warrant or a seizure warrant in relation to premises is being executed, the executing officer and the persons assisting may, if the warrant is still in force, complete the execution of the warrant after all of them temporarily cease its execution and leave the premises:

- (a) for not more than one hour; or
- (b) for a longer period if the occupier of the premises consents in writing.

“(3) If:

- (a) the execution of a search warrant or of a seizure warrant is stopped by an order of a court; and
- (b) the order is later revoked or reversed on appeal; and
- (c) the warrant is still in force;

the execution of the warrant may be completed.

“(4) If:

- (a) the execution of a search warrant or of a seizure warrant is stopped by an order of a court; and
- (b) the order is later revoked or reversed on appeal; and
- (c) the warrant has ceased to be in force;

the court revoking or reversing the order may reissue the warrant for a further period not exceeding 7 days.

“(5) The court must not exercise the power under subsection (4) unless it is satisfied of the matters set out in subsection 198(1) or 203(1).

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

**Use of animals in executing a warrant**

“203L. In executing a search warrant or a seizure warrant in relation to premises, the executing officer or a person assisting may bring to the premises any animals reasonably necessary for locating things the subject of the warrant.

**Warrants by telephone or other electronic means**

“203M.(1) An authorised person may apply to a judicial officer for a search warrant or for a seizure warrant by telephone, telex, facsimile or other electronic means:

- (a) in an urgent case; or
- (b) if the delay that would occur if an application were made in person would frustrate the effective execution of the warrant.

“(2) The judicial officer may require communication by voice to the extent that is practicable in the circumstances.

“(3) An application under this section must include all information required to be provided in an ordinary application for a search warrant or for a seizure warrant, but the application may, if necessary, be made before the information is sworn.

“(4) If an application is made to a judicial officer under this section and the judicial officer, after considering the information and having received and considered such further information (if any) as the judicial officer required, is satisfied that:

- (a) a search warrant or a seizure warrant in the terms of the application should be issued urgently; or
- (b) the delay that would occur if an application were made in person would frustrate the effective execution of the warrant;

the judicial officer may complete and sign the same form of warrant that would be issued under section 198 or 203.

“(5) If the judicial officer decides to issue the warrant, the judicial officer is to inform the applicant, by telephone, telex, facsimile or other electronic means, of the terms of the warrant and the day on which and the time at which it was signed.

“(6) The applicant must then complete a form of warrant in terms substantially corresponding to those given by the judicial officer, stating on the form the name of the judicial officer and the day on which and the time at which the warrant was signed,



*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

“(7) The applicant must, not later than the day after:

- (a) the day of expiry of the warrant; or
- (b) the day on which the warrant was executed;

whichever is the earlier, give or transmit to the judicial officer the form of warrant completed by the applicant and, if the information referred to in subsection (3) was not sworn, that information duly sworn.

“(8) The judicial officer must:

- (a) attach to the documents provided under subsection (7) the form of warrant signed by the judicial officer; and
- (b) give or transmit to the applicant the attached documents.

“(9) If:

- (a) it is material, in any proceedings, for a court to be satisfied that the exercise of a power under a warrant issued under this section was duly authorised; and
- (b) the form of warrant signed by the judicial officer is not produced in evidence;

the court is to assume, unless the contrary is proved, that the exercise of the power was not duly authorised.

**Receipts for things seized under warrant**

“203N.(1) If a thing is seized under a search warrant or a seizure warrant, the executing officer or a person assisting must provide a receipt for the thing.

“(2) If 2 or more things are seized, they may be covered in the one receipt.

**Offence for making false statements in warrants**

“203P. A person must not make, in an application for a search warrant or for a seizure warrant, a statement that the person knows to be false or misleading in a material particular.

Penalty: Imprisonment for 2 years.

**Offences relating to telephone warrants**

“203Q. A person must not:

- (a) state in a document that purports to be a form of warrant under section 203M the name of a judicial officer unless that judicial officer issued the warrant; or
- (b) state on a form of warrant under that section a matter that, to the person’s knowledge, departs in a material particular from the form authorised by the judicial officer; or

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 4—continued**

- (c) purport to execute, or present to a person, a document that purports to be a form of warrant under that section that the person knows:
  - (i) has not been approved by a judicial officer under that section;  
or
  - (ii) departs in a material particular from the terms authorised by a judicial officer under that section; or
- (d) give to a judicial officer a form of warrant under that section that is not the form of warrant that the person purported to execute.

Penalty: Imprisonment for 2 years.

***“Subdivision F—Dealing with things seized as evidential material under a search warrant or under subsection 203B(3) or 203C(3)”***

**Retention of things seized under a search warrant or under subsection 203B(3) or 203C(3)**

“203R.(1) Subject to any law of the Commonwealth, a State or a Territory permitting the retention, destruction or disposal of a thing seized as evidential material by an officer of Customs under a search warrant or by an authorised person under subsection 203B(3) or 203C(3), the officer or authorised person must return it if:

- (a) the reason for its seizure no longer exists or it is decided that it is not to be used in evidence; or
- (b) 60 days after its seizure:
  - (i) proceedings in respect of which the thing may afford evidence have not been started; and
  - (ii) an order permitting the thing to be retained has not been made under section 203S; and
  - (iii) an order of a court of the Commonwealth or of a State or Territory permitting the retention, destruction or disposal of the thing has not been made;

whichever first occurs.

“(2) For the purposes of this section, the return of a thing requires its return to the person reasonably believed to be the owner of the thing in a condition as near as practicable to the condition in which it was seized.

**Magistrate may permit a thing seized under a search warrant or under subsection 203B(3) or 203C(3) to be retained**

“203S.(1) If a thing is seized as evidential material by an officer of Customs under a search warrant, or by an authorised person under subsection 203B(3) or 203C(3), and:

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

- (a) before the end of 60 days after the seizure; or
- (b) before the end of a period previously specified in a magistrate's order under this section;

proceedings in respect of which the thing may afford evidence have not been started:

- (c) if the thing is seized by an officer of Customs under a search warrant—an officer of Customs may apply to a magistrate for an order that the thing be retained; or
- (d) if the thing is seized by an authorised person under subsection 203B(3) or 203C(3)—an authorised person may apply to a magistrate for an order that the thing be retained.

“(2) If the magistrate is satisfied:

(a) that it is necessary for the retention of the thing be continued:

- (i) for the purposes of an investigation as to whether an offence has been committed; or
- (ii) to enable evidence of an offence to be assembled for the purposes of a prosecution; and

(b) that there has been no avoidable delay in conducting the investigation or assembling the evidence concerned;

the magistrate may order that the thing be retained for a period specified in the order.

“(3) Before making the application, the officer of Customs or the authorised person must:

- (a) take reasonable steps to discover who has an interest in the retention of the thing; and
- (b) if it is practicable to do so, notify each person who the officer believes to have such an interest of the proposed application.

***“Subdivision G—Dealing with forfeited goods seized under a seizure warrant or under subsection 203B(2) or 203C(2)”.***

**29. Section 203A:**

Renumber the section as 203T.

**30. Section 204:**

Repeal the section, substitute:

**Seized goods to be secured**

“204.(1) In this section:

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

**‘approved place’**, in relation to goods, means a place approved by a Collector as a place for the storage of goods of that kind.

“(2) If an officer of Customs seizes any goods other than narcotic-related goods under a seizure warrant or under section 203B, the officer must, as soon as practicable, take those goods to an approved place.

“(3) If a person other than an officer of Customs seizes any goods other than narcotic-related goods under a seizure warrant or under section 203B, the person must, as soon as practicable, deliver the goods into the custody of an officer of Customs.

“(4) If a person other than a member of the Australian Federal Police seizes:

- (a) any narcotic-related goods under a seizure warrant or under section 203B; or
- (b) any narcotic goods under section 203C;

the person must, as soon as practicable, deliver the goods into the custody of a member of the Australian Federal Police.

“(5) If goods are delivered to an officer of Customs under subsection (3), the officer must:

- (a) if paragraph (b) does not apply—as soon as practicable, deliver the goods to an approved place; or
- (b) if the goods are delivered to the officer at an approved place—leave the goods at that place.”.

**31. Section 205:**

Repeal the section, substitute:

**Requirement to serve seizure notices**

“205.(1) After goods have been seized under a seizure warrant or under subsection 203B(2) or 203C(2), the responsible person must serve, within 7 days after the seizure, a seizure notice on the owner of the goods or, if the owner cannot be identified after reasonable inquiry, on the person in whose possession or under whose control the goods were when they were seized.

“(2) Subsection (1) applies whether or not a claim for the return of the goods seized has been made under section 205B.

“(3) The notice must be in writing and must be served:

- (a) personally or by post; or
- (b) if no person of the kind referred to in subsection (1) can be identified after reasonable inquiry—by publishing a copy of the notice in a newspaper circulating in the location in which the goods were seized.

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

“(4) A seizure notice may be served on a person who is outside Australia.

“(5) In this section:

**‘responsible person’** means:

- (a) in relation to goods other than narcotic-related goods—the officer of Customs who seized the goods or to whom the goods were delivered under subsection 204(3); or
- (b) in relation to narcotic-related goods—the member of the Australian Federal Police who seized the goods or to whom the goods were delivered under subsection 204(4).

**Matters to be dealt with in seizure notices**

“205A. A seizure notice must set out the following:

- (a) a statement identifying the goods;
- (b) the day on which they were seized;
- (c) the ground, or each of the grounds, on which they were seized;
- (d) a statement that, if a claim for the return of the goods has not already been made, and is not made within 30 days after the day the notice is served, the goods will be taken to be condemned as forfeited to the Crown;
- (e) if the notice is to be served in a foreign country—a statement that the person served, if that person has not yet made such a claim, may not make such a claim unless he or she has first appointed in writing an agent in Australia with authority to accept service of documents, including process in any proceedings arising out of the matter.

**Claim for return of goods seized**

“205B.(1) If goods are seized under a seizure warrant or under subsection 203B(2) or 203C(2), the owner of the goods may, whether or not a seizure notice has yet been served on the owner, make a claim to the appropriate person for the return of the goods.

“(2) A claim:

- (a) must be in writing in an approved form; and
- (b) must specify the grounds on which the claim is made; and
- (c) if it is made by a person who does not reside or have a place of business in Australia, must:
  - (i) appoint an agent in Australia with authority to accept service of documents, including process in any proceedings, arising out of the matter; and

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

- (ii) specify the address of the agent for service; and
- (iii) be accompanied by the written consent of the agent signed by the agent, agreeing to act as agent.

“(3) In this section:

**‘appropriate person’** means:

- (a) in relation to goods other than narcotic-related goods:
  - (i) the CEO; or
  - (ii) a Regional Director for a State or Territory; and
- (b) in relation to narcotic-related goods:
  - (i) the Commissioner of Police; or
  - (ii) a Deputy Commissioner of Police.

**Treatment of goods seized if no claim for return is made**

“205C. If:

- (a) goods have been seized under a seizure warrant or under subsection 203B(2) or 203C(2); and
- (b) a seizure notice has been served; and
- (c) at the end of 30 days after the day the notice was served, no claim has been made for return of the goods;

the goods are taken to be condemned as forfeited to the Crown.

**Treatment of goods seized if a claim for return is made**

“205D.(1) This section applies if:

- (a) goods are seized under a seizure warrant or under subsection 203B(2) or 203C(2); and
- (b) not later than 30 days after the day the seizure notice was served, a claim is made under section 205B for return of the goods.

“(2) The authorised person who seized the goods must, subject to any law of the Commonwealth, a State or a Territory permitting their retention, destruction or disposal, return the goods unless:

- (a) the goods have been dealt with under section 206 or 207; or
- (b) not later than 60 days after the claim for their return is made, proceedings in respect of an offence involving the goods have been commenced and, on completion of the proceedings, a court has made an order for condemnation of the goods as forfeited to the Crown; or
- (c) not later than 60 days after the claim for their return is made:
  - (i) an order permitting the goods to be retained for a specified period has been made under section 205E; and

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 4—continued**

- (ii) before the end of that specified period, proceedings in respect of an offence involving the goods have been commenced and, on completion of the proceedings, a court has made an order for condemnation of the goods as forfeited to the Crown; or
- (d) not later than 60 days after the claim for their return is made:
  - (i) an order permitting the goods to be retained for a specified period has been made under section 205E; and
  - (ii) before the end of that specified period proceedings have been commenced before a court of summary jurisdiction for a declaration that the goods are special forfeited goods and, on completion of the proceedings, a court has made an order for condemnation of the goods as forfeited to the Crown; or
- (e) if the goods were seized as special forfeited goods—not later than 60 days after the claim for their return is made, proceedings before a court of summary jurisdiction for a declaration that the goods are special forfeited goods have been commenced and, on completion of the proceedings, a court has made an order for condemnation of the goods as forfeited to the Crown.

Note: Subsection (9) gives special forfeited goods a wider meaning for the purposes of this section.

“(3) If:

- (a) goods seized otherwise than as special forfeited goods have not been dealt with under section 206; and
- (b) proceedings of the kind referred to in paragraph (2)(b) or (c) are commenced in respect of an offence involving the goods; and
- (c) on completion of the proceedings, the court:
  - (i) finds that the offence is proved; and
  - (ii) is satisfied, in all the circumstances of the case, that it is appropriate that an order be made for condemnation of the goods as forfeited to the Crown;

the court must make an order to that effect.

Note: Subsection (9) gives special forfeited goods a wider meaning for the purposes of this section.

“(4) If:

- (a) goods seized as special forfeited goods have not been dealt with under section 206 or 207; and
- (b) proceedings of the kind referred to in paragraph (2)(b) or (c) are commenced in respect of an offence involving the goods; and
- (c) on completion of the proceedings, the court is satisfied that the goods are special forfeited goods;

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

the court must make an order for condemnation of the goods as forfeited to the Crown, whether or not the court finds the offence proved.

Note: Subsection (9) gives special forfeited goods a wider meaning for the purposes of this section.

“(5) Subject to subsection (6) if:

- (a) goods seized as special forfeited goods have not been dealt with under section 206 or 207; and
- (b) proceedings of the kind referred to in paragraph (2)(d) or (e) are commenced in respect of the goods; and
- (c) on completion of the proceedings, the court is satisfied that the goods are special forfeited goods;

the court must declare the goods to be special forfeited goods and make an order for condemnation of the goods as forfeited to the Crown.

Note: Subsection (9) gives special forfeited goods a wider meaning for the purposes of this section.

“(6) A court must not make an order for condemnation of goods under subsection (5) if proceedings for an offence involving the goods have been commenced.

“(7) If the finding of a court in proceedings under paragraph (2)(b), (c), (d) or (e) in respect of goods that have not been dealt with under section 206 or 207 may be taken on appeal to another court, the goods are not to be returned under subsection (2), or disposed of under section 208D or 208DA, while that appeal may be made, or, if it is made, until the completion of that appeal.

“(8) For the purposes of this section, the return of goods requires their return to the person reasonably believed to be the owner of the goods in a condition as near as practicable to the condition in which they were seized.

“(9) In this section:

**‘offence’** means an offence against any law of the Commonwealth, a State or a Territory;

**‘special forfeited goods’** includes:

- (a) goods that are forfeited under section 7, 10, 11 or 13 of the *Commerce (Trade Descriptions) Act 1905*; and
- (b) goods that are forfeited under a paragraph of section 73 of the *Distillation Act 1901* other than paragraph 73(iv); and
- (c) goods that are forfeited under section 17 of the *Spirits Act 1906*.

“(10) In this section, a reference to completion of proceedings includes a reference to completion of any appeal process arising from those proceedings.



*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

**Magistrate may permit goods seized under a seizure warrant or under subsection 203B(2) or 203C(2) to be retained**

“205E.(1) If goods are seized under a seizure warrant or under subsection 203B(2) or 203C(2) and:

- (a) before the end of 60 days after the making of a claim for their return; or
- (b) before the end of the period previously specified in a magistrate’s order under this section;

proceedings of the kind referred to in paragraph 205D(2)(b) have not been started, an authorised person may apply to a magistrate for an order that the goods be retained.

“(2) If the magistrate is satisfied that it is necessary:

- (a) that the retention of the goods continue while evidence of the offence to which the proceedings referred to in paragraph 205D(2)(b) relate is assembled; and
  - (b) that there has been no avoidable delay in assembling that evidence;
- the magistrate may order that the goods be retained for a period specified in the order.

“(3) Before making the application, the authorised person must:

- (a) take reasonable steps to discover who has an interest in the retention of the goods; and
- (b) if it is practicable to do so, notify each person who the officer believes to have such an interest of the proposed application.

**Right of compensation in certain circumstances for goods disposed of or destroyed**

“205F.(1) Despite the disposal or destruction of goods taken to be condemned as forfeited to the Crown because no claim for their return was made, a person may apply to a court of competent jurisdiction under this section for compensation.

“(2) A right to compensation exists if:

- (a) the goods are not special forfeited goods within the meaning of section 205D; and
- (b) the goods were not used or otherwise involved in the commission of an offence; and

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

- (c) the person establishes, to the satisfaction of the court:
- (i) that he or she is the rightful owner of the goods; and
  - (ii) that there were circumstances providing a reasonable excuse for the failure to claim the goods not later than 30 days after the day the seizure notice was served.

“(3) If a right to compensation exists under subsection (2), the court must order the payment by the Commonwealth to the person of an amount equal to:

- (a) if the goods have been sold—the proceeds of the sale; and
- (b) if the goods have been destroyed—the market value of the goods at the time of their destruction.

**Effect of forfeiture**

“205G. When goods are, or are taken to be, condemned as forfeited to the Crown, the title to the goods immediately vests in the Commonwealth to the exclusion of all other interests in the goods, and the title cannot be called into question.”

**32. Sections 206, 207 and 208:**

Repeal the sections, substitute:

**Immediate disposal of certain goods**

“206.(1) If:

- (a) goods are seized under a seizure warrant or under subsection 203B(2); and
- (b) the goods are perishable goods or live animals; and
- (c) the CEO or a Regional Director for a State or Territory is satisfied that the retention of the goods would constitute:
  - (i) a danger to public health; or
  - (ii) if the goods are live animals—a danger to the health of other animals or a danger to plants or to agricultural produce;

the CEO or Regional Director concerned may cause the goods to be dealt with in such manner as he or she considers appropriate (including the destruction of the goods).

“(2) If:

- (a) goods are seized under a seizure warrant or under subsection 203B(2); and
- (b) the goods are a vessel in the possession of an officer of Customs; and

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

- (c) the CEO or a Regional Director for a State or Territory is satisfied that the vessel is so unseaworthy that its custody or maintenance is impracticable;

the CEO or Regional Director concerned may cause the goods to be dealt with in such manner as he or she considers appropriate (including the destruction of the goods).

“(3) As soon as practicable, but not later than 7 days after the goods referred to in subsection (1) or (2) have been dealt with, the CEO or Regional Director concerned must give or publish a notice in accordance with subsection (5).

“(4) The notice must be in writing and must be served:

- (a) personally or by post on the owner of the goods or, if the owner cannot be identified after reasonable inquiry, on the person in whose possession or under whose control the goods were when they were seized; or
- (b) if no person of the kind referred to in paragraph (a) can be identified after reasonable inquiry—by publishing a copy of the notice in a newspaper circulating in the location in which the goods were seized.

“(5) The notice must:

- (a) identify the goods; and
- (b) state that the goods have been seized under a seizure warrant or under subsection 203B(2) and give the reason for the seizure; and
- (c) state that the goods have been dealt with under subsection (1) or (2) and specify the manner in which they have been so dealt with and the reason for doing so; and
- (d) set out the terms of subsection (6).

“(6) If goods are dealt with in accordance with subsection (1) or (2), the owner of the goods may bring an action against the Commonwealth in a court of competent jurisdiction for the recovery of the market value of the goods at the time they were so dealt with.

“(7) A right to recover the market value of the goods at the time they were dealt with in accordance with subsection (1) or (2) exists if:

- (a) the goods are not special forfeited goods within the meaning of section 205D; and
- (b) the goods were not used or otherwise involved in the commission of an offence; and
- (c) the owner of the goods establishes, to the satisfaction of the Court, that the circumstances for them to be so dealt with did not exist.

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 4—continued**

“(8) If a person establishes a right to recover the market value of the goods at the time they were dealt with, the Court must order the payment by the Commonwealth of an amount equal to that value at that time

**Immediate disposal of narcotic goods**

“207.(1) If:

- (a) goods are seized under a seizure warrant or under subsection 203B(2) or 203C(2); and
- (b) the goods are reasonably believed by the Commissioner of Police or a Deputy Commissioner of Police to be special forfeited goods that are narcotic goods;

the Commissioner or Deputy Commissioner may cause the goods to be dealt with in such manner as he or she considers appropriate (including the destruction of the goods).

“(2) If goods are dealt with in accordance with subsection (1), the owner of the goods may bring an action against the Commonwealth in a court of competent jurisdiction for the recovery of the market value of the goods at the time they were so dealt with.

“(3) A right to recover the market value of the goods at the time they were dealt with in accordance with subsection (1) exists if:

- (a) the goods are not special forfeited goods; and
- (b) the goods were not used or otherwise involved in the commission of an offence; and
- (c) the owner of the goods establishes, to the satisfaction of the Court, that the circumstances for them to be so dealt with did not exist.

“(4) If a person establishes a right to recover the market value of the goods at the time they were dealt with in accordance with subsection (1) or (2), the Court must order the payment by the Commonwealth of an amount equal to that value at that time.

**Release of goods on security**

“208.(1) This section applies to goods:

- (a) that have been seized under a seizure warrant; and
- (b) that are not special forfeited goods; and
- (c) that are not taken to be forfeited to the Crown under section 205C; and
- (d) in respect of which proceedings have not yet been brought by the Commonwealth under section 205D.

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

“(2) The owner of the goods may apply to a court of summary jurisdiction for an order that the goods be released to the owner on provision to the CEO of security for an amount determined by the court in accordance with subsection (4).

“(3) In determining whether or not to order the release of the goods on provision of a security, the court may have regard to:

- (a) the impact that the continued retention of the goods would have on the economic interests of third parties; and
- (b) whether the continued retention of the goods would prevent the provision of services by third parties which would place at risk the health, safety or welfare of the community; and
- (c) any other like matters that the court considers relevant.

“(4) For the purposes of this section, the security to be provided in respect of the goods is security for an amount determined by the court that does not exceed the sum of:

- (a) the market value of the goods at the time when the order is made; and
- (b) the costs incurred by Customs for storage of the goods from the time of their seizure until the time of their release under this section;

reduced by the amount of any duty that has been paid on the goods.

“(5) If the security is given, the CEO is to release the goods to the applicant.”.

**33. Sections 208A and 208B:**

Repeal the sections.

**34. Section 208C:**

Omit “notice under subsection 205(2) or paragraph 208A(1)(b)”, substitute “seizure notice under section 205 or a notice under subsection 206(3)”.

**35. Section 208D:**

Omit “under section 203 that are condemned, or deemed under subsection 205(6) or (7) or subsection 208A(2) to be condemned, as forfeited to the Crown”, substitute “under a seizure warrant or under subsection 203B(2) or 203C(2) that are taken to be condemned as forfeited to the Crown under section 205C or that are so condemned under section 205D”.

**36. Subsection 208DA(1) (definition of “condemned goods”):**

Omit the definition, substitute:

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

“ **‘condemned goods’** means goods seized under a seizure warrant or under subsection 203B(2) or 203C(2):

- (a) that are taken to be condemned as forfeited to the Crown under section 205C; or
- (b) that are so condemned under section 205D;”.

**37. Section 208E:**

Omit “section 207”, substitute “section 206”.

**38. Subsection 209(2):**

Omit “in lieu of seizing the goods under section 203”, substitute “instead of seizing the goods under a seizure warrant”.

**39. Subsection 209(3):**

Omit “\$1,000”, substitute “\$5,000”.

**40. Subsection 209(3A):**

- (a) Omit “by virtue of section 203”, substitute “under a seizure warrant”.
- (b) Omit “in lieu of seizing the goods under this section”, substitute “instead of seizing the goods under a seizure warrant”.

**41. Subsection 209(3B):**

Omit “\$1,000”, substitute “\$5,000”.

**42. Subsection 209(7):**

Omit all the words after “subsection (6),”, substitute:  
“the article or goods are taken:

- (a) to have been seized under a seizure warrant at the end of 21 days after the notice is served; and
- (b) to have been so seized by the officer who served the notice under subsection (5)”.

**43. After section 209:**

Insert the following section and Subdivision heading:

**Destruction or concealment of evidential material or forfeited goods**

“209A. A person must not:

- (a) destroy, or render incapable of identification, a document or thing that is, or may be, evidential material or a forfeited good; or

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

- (b) render illegible or indecipherable such a document or thing; or
- (c) place or conceal on his or her body, or in any clothing worn by the person, such a document or thing;

with the intention of preventing it from being seized by an authorised person in the exercise of the person's powers under a search warrant, a seizure warrant or section 203B or 203C.

Penalty: Imprisonment for 2 years.

*“Subdivision H—Powers of arrest”.*

**44. Section 214:**

Repeal the section.

**45. Before section 214AA:**

Insert:

*“Subdivision J—Auditing of commercial documents”.*

**46. Subparagraph 214AA(1)(a)(i):**

Omit “or 70”, substitute “, 70 or 77D”.

**47. Subparagraph 214AA(1)(b)(i):**

Omit “or 70(7)(a)”, substitute “, 70(7)(a) or 77D(5)(a)”.

**48. Subsection 214AB(2):**

Omit “or 70”, substitute “, 70 or 77D”.

**49. After section 214B:**

Insert the following Subdivision heading and section:

*“Subdivision K—Miscellaneous*

**Nature of functions of magistrate under sections 203S and 205E**

“214BA.(1) A function of making an order conferred on a magistrate by section 203S or 205E is conferred on the magistrate in a personal capacity and not as a court or a member of a court.

“(2) Without limiting the generality of subsection (1), an order made by a magistrate under section 203S or 205E has effect only by virtue of this Act and is not taken, by implication, to be made by a court.

“(3) A magistrate performing a function of, or connected with, making an order under section 203S or 205E has the same protection and immunity as if he or she were performing that function as, or as a member of, a court (being the court of which the magistrate is a member).

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

“(4) The Governor-General may make arrangements with the Governor of a State, the Chief Minister of the Australian Capital Territory, the Administrator of the Northern Territory or the Administrator of Norfolk Island for the performance, by all or any of the persons who from time to time hold office as magistrates in that State or Territory, of the function of making orders under section 203S or 205E.”.

**50. Subparagraph 219A(2)(c)(i):**

After “seized” insert “under a seizure warrant or under subsection 203B(2) or 203C(2)”.

**51. Paragraph 229(1)(bb):**

Omit “207”, substitute “206”.

**52. Subsection 229A(6):**

Omit “in pursuance of section 203”, substitute “under a seizure warrant”.

**53. Subsections 229A(7) and (8):**

Omit “under section 203”, substitute “under a seizure warrant”.

**54. Subsection 234(2B):**

Omit “or a withdrawal of an import entry”, substitute “, a withdrawal of such an entry, or a return for the purposes of subsection 69(5), 70(7) or 77D(5)”.

**55. Paragraph 240(1AA)(a):**

Omit “or 70”, substitute “, 70 or 77D”.

**56. Section 262:**

Repeal the section.

**57. After section 269H:**

Insert:

**CEO may reject a TCO application in relation to goods referred to in section 269SJ**

“269HA.(1) If, at any time during the period starting from the receipt of a TCO application and ending with the making of a TCO, the CEO becomes satisfied that the goods to which the application relates are goods in respect of which, under subsection 269SJ(1), the CEO is prevented from making a TCO, the CEO must:



*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 4—continued**

- (a) reject the application; and
- (b) by notice in writing given to the applicant, inform the applicant that the application is rejected and of the reason for the rejection.

“(2) If, at any time after the publication of a notice in the *Gazette* under subsection 269K(1), the CEO rejects the application to which the notice relates under subsection (1), the CEO must, as soon as practicable after rejecting the application, publish a notice in the *Gazette* stating that the application has been rejected and giving the reason for the rejection.”.

**58. After subsection 269SD(4):**

Insert:

“(5) If the CEO is satisfied that a TCO contains a description of the goods the subject of the order in terms of their intended end use, the CEO may make an order revoking the TCO with effect from the revocation.”.

**59. Subsection 269SE(2):**

Omit “or (2)”, substitute “, (2) or (5)”.

**60. Subsection 269SJ(1):**

Omit the subsection, substitute:

“(1) The CEO must not make a TCO in respect of goods:

- (a) described in terms of their intended end use; or
- (b) declared by the regulations to be goods to which a TCO should not extend.”.

Note: The heading to section 269SJ is altered by inserting “goods described by reference to their end use or” before “prescribed goods”.

**61. Subsections 269SJ(2) and (3):**

Omit “subsection (1)”, substitute “paragraph (1)(b)”.

**62. After paragraph 273GA(1)(aaj):**

Insert:

- “(aak) a decision by an officer under subsection 77D(4) to specify conditions to which a permission under section 77D is subject;
- (aal) a decision by an officer under section 77D to refuse to grant a permission under that section;
- (aam) a decision by an officer under section 77D to revoke a permission granted under that section;
- (aan) a decision by an officer under subsection 77E(4) to specify conditions to which a permission under section 77E is subject;

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 4—continued**

- (aao) a decision by an officer under section 77E to refuse to grant a permission under that section;
- (aap) a decision by an officer under section 77E to revoke a permission granted under that section;”.

**63. After paragraph 273GA(1)(m):**

Insert:

“(ma) a decision of the CEO under section 269HA rejecting a TCO application;”.

**64. Paragraphs 273GA(1)(n), (o), (q) and (r):**

Insert “a decision of the CEO under section 269SH on a reconsideration of” before “a decision”.

**65. Paragraph 273GA(1)(s):**

Omit “or (2)”, substitute “, (2) or (5)”.

**66. Subsection 273GA(6A):**

Omit the subsection, substitute:

“(6A) An application may not be made to the Tribunal in respect of a decision under section 269SH on a reconsideration of a decision of the CEO under subsection 269P(1), 269Q(1) or 269SC(1) or (4) unless the person who makes the application to the Tribunal is:

- (a) an affected person within the meaning of section 269SH; and
- (b) is adversely affected by the decision on the reconsideration.”.

**67. Schedules III, IV and V:**

Repeal the Schedules.

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*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 5**

Section 7

**AMENDMENTS OF THE CUSTOMS ADMINISTRATION ACT 1985**

- 1. Section 3 (definition of “Comptroller-General”):**  
Omit the definition.
- 2. Section 3 (definition of “law of customs or excise”):**  
Omit “Comptroller-General” (wherever occurring), substitute “CEO”.
- 3. Section 3:**  
Insert the following definition:  
“ ‘CEO’ means the Chief Executive Officer of Customs;”.
- 4. Subsection 4(2):**  
Omit “Comptroller-General”, substitute “Chief Executive Officer”.
- 5. Subsections 4(3) and (4):**  
Omit “Comptroller-General” (wherever occurring), substitute “CEO”.
- 6. After section 4:**  
Insert:

**Minister may give directions to CEO**

“4A.(1) The Minister may give written directions to the CEO with respect to the general policy to be pursued in relation to the administration of the Australian Customs Service.

“(2) If the Minister gives a direction under subsection (1), the Minister must cause a copy of the direction to be laid before each House of the Parliament within 15 sitting days of that House after giving the direction.

“(3) The CEO must comply with all written directions given by the Minister under subsection (1).”.

**7. Section 5:**

Omit “Comptroller-General”, substitute “CEO”.

Note: The heading to section 5 is altered by omitting “Comptroller-General” and substituting “CEO”.

**8. Subsection 6(1):**

Omit “Comptroller-General shall be appointed for a period of 7 years”, substitute “CEO is to be appointed for a period of 5 years”.

**9. Subsection 6(2):**

Omit “Comptroller-General is, at the time of the appointment, over 58”, substitute “CEO is, at the time of the appointment, over 60”.

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 5—continued**

**10. Subsection 6(3):**

Omit “Comptroller-General”, substitute “CEO”.

**11. Section 7:**

Omit “Comptroller-General” (wherever occurring), substitute “CEO”.

**12. Subsections 8(1) and (2):**

Omit “Comptroller-General”, substitute “CEO”.

**13. Subsection 8(3):**

Omit “*Tribunals*”, substitute “*Tribunal*”.

**14. Subsections 9(1) and (2):**

Omit “Comptroller-General”, substitute “CEO”.

**15. Section 10:**

Omit “Comptroller-General” (wherever occurring), substitute “CEO”.

**16. Section 11:**

Omit “Comptroller-General” (wherever occurring), substitute “CEO”.

**17. Subsections 12(1), (2), (3), (5), (6), (7) and (8):**

Omit “Comptroller-General” (wherever occurring), substitute “CEO”.

Note: The heading to section 12 is altered by omitting “Comptroller-General” and substituting “CEO”.

**18. After paragraph 12(6)(a):**

Insert:

“(aa) the CEO fails, without reasonable excuse, to comply with a direction given under section 4A;”.

**19. Subsections 13(1), (4), (5) and (8):**

Omit “Comptroller-General” (wherever occurring), substitute “CEO”.

Note: The heading to section 13 is altered by omitting “Comptroller-General” and substituting “CEO”.

**20. Subsections 14(1), (2) and (3):**

Omit “Comptroller-General” (wherever occurring), substitute “CEO”.

**21. Subsection 15(2):**

Omit “Comptroller-General”, substitute “CEO”.

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 5—continued**

**22. Paragraphs 16(1)(a) and (3)(a), (b) and (c):**

Omit “Comptroller-General” (wherever occurring), substitute “CEO”.

**23. Subsection 16A(1):**

Omit “Comptroller-General” (wherever occurring), substitute “CEO”.

Note: The heading to section 16A is altered by omitting “Comptroller-General” and substituting “CEO”.

**24. Subsection 17(1):**

Omit “Comptroller-General”, substitute “CEO”.

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**SCHEDULE 6**

Section 8

**AMENDMENTS OF THE DISTILLATION ACT 1901**

**1. Before section 60:**

Insert the following Division and Division heading:

***“Division 1—Preliminary***

**Law relating to legal professional privilege not affected**

“59A. This Part does not affect the law relating to legal professional privilege.

**CEO may give directions concerning the exercise of powers under this Division**

“59B.(1) Without limiting the generality of the power conferred on the CEO under subsection 4(4) of the *Customs Administration Act 1985*, the CEO may give directions in writing under that subsection concerning:

- (a) the circumstances in which the powers under this Part may be exercised; and
- (b) the officers of Customs who are entitled to exercise those powers; and
- (c) the manner and frequency of reporting to the CEO concerning the exercise of those powers.

“(2) A direction given for the purposes of subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

***“Division 2—General regulatory powers”***.

**2. Section 61:**

Repeal the section.

**3. Sections 64, 65, 66, 67 and 68:**

Repeal the sections.

**4. After section 69:**

Insert the following Division heading:

***“Division 3—Miscellaneous”***.

**SCHEDULE 7**

Section 9

**AMENDMENTS OF THE EXCISE ACT 1901**

**1. Subsection 61D(1) (definition of “relevant traveller”):**

Omit the definition, substitute:

“ **‘relevant traveller’** means a person:

- (a) who intends to make an international flight, whether as a passenger on, or as a pilot or member of the crew of, an aircraft; or
- (b) who intends to make an international voyage, whether as a passenger on, or as the master or a member of the crew of, a ship.”.

**2. Subsection 61D(1):**

Insert:

“ **‘international voyage’** means a voyage, whether direct or indirect, by a ship between a place in Australia and a place outside Australia;”.

**3. Paragraph 61D(2)(a):**

Insert “or voyage” after “flight”.

**4. Paragraph 61(D)(2)(b):**

Insert “or voyage” after “flight”.

**5. Paragraph 61D(7)(b):**

Insert “or voyage” after “flight”.

**6. After the heading to Division 1 of Part IX:**

Insert the following Subdivision and Subdivision heading:

***“Subdivision A—Preliminary***

**Law relating to legal professional privilege not affected**

“82. This Division does not affect the law relating to legal professional privilege.

**CEO may give directions concerning the exercise of powers under this Division**

“83.(1) Without limiting the generality of the power conferred on the CEO under subsection 4(4) of the *Customs Administration Act 1985*, the CEO may give directions in writing under that subsection concerning:

- (a) the circumstances in which the powers under this Division may be exercised; and

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 7—continued**

- (b) the officers of Customs who are entitled to exercise those powers;  
and
- (c) the manner and frequency of reporting to the CEO concerning the exercise of those powers.

“(2) A direction given for the purposes of subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

**“Subdivision B—General regulatory powers”.**

**7. Sections 87, 88, 89 and 90:**

Repeal the sections, substitute:

**Power to stop conveyances about to leave an Excise place**

“87.(1) If a conveyance is about to leave an Excise place, an officer may:

- (a) require the conveyance to stop; and
- (b) check to establish that there is appropriate documentation authorising the movement from the Excise place of any excisable goods in or on the conveyance that are subject to the control of Customs within the meaning of section 61.

“(2) For the purposes of subsection (1), an officer may question the person apparently in charge of the conveyance about any goods in, on, or in a container on, the conveyance.

“(3) The power in paragraph (1)(b) includes a power to give directions relating to:

- (a) the unloading of any goods from the conveyance; or
- (b) their movement to a particular part of the Excise place for further examination.

“(4) If a direction under subsection (3) is not complied with, an officer may do what is necessary to give effect to the direction or to arrange for it to be done.

“(5) An officer must not detain a conveyance under this section for longer than is necessary and reasonable to exercise the powers conferred by this section.

“(6) In this section:

**‘aircraft’** means any machine or craft that can derive support in the atmosphere from the reactions of the air;

**‘container’** includes a trailer or other like receptacle, whether with or without wheels, that is used for the movement of goods from one place to another;



*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 7—continued**

**‘conveyance’** means an aircraft, railway rolling stock, vehicle or vessel of any kind;

**‘Excise place’** means a factory or an approved place.”.

**8. Sections 93, 94, 95, 96, 97, 98 and 99:**

Repeal the sections.

**9. Before section 99A:**

Insert the following Subdivision heading:

*“Subdivision C—Auditing of commercial documents relating to the Diesel Fuel Rebate Scheme”.*

**10. After section 99A:**

Insert the following Subdivision heading:

*“Subdivision D—Powers of arrest”.*

**11. After section 104:**

Insert the following Subdivision heading:

*“Subdivision E—Miscellaneous”.*

**12. After paragraph 162C(1)(h):**

Add at the end the following word and paragraph:

“; and (i) the decision of the CEO under section 165A as to the amount of duty shortpaid or overpaid”.

**13. After section 165:**

Insert:

**By-laws prescribing exempt onshore fields or exempt offshore fields may be revoked within 3 years**

“165A.(1) If:

(a) for the purposes of the Excise Tariff, the CEO has made, or is taken to have made, by-laws under section 165 prescribing 2 or more fields as exempt onshore fields or exempt offshore fields; and

(b) on the basis of subsequent information, the Minister for Primary Industries and Energy is satisfied that the fields as prescribed are actually parts of a single field;

that Minister may, within 3 years after those by-laws or the earliest of those by-laws comes into effect, make a by-law (**‘replacement by-law’**) that:

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 7—continued**

- (c) revokes the original by-laws from the day each of those by-laws came into effect; and
- (d) substitutes for the original by-laws a new by-law that, with effect from the day the revoked by-laws or the earliest of the revoked by-laws came into effect, prescribes the single field as an exempt onshore field or an exempt offshore field.

“(2) If:

- (a) for the purposes of the Excise Tariff, the CEO has made, or is taken to have made, a by-law under section 165 prescribing a field as an exempt onshore field or an exempt offshore field; and
- (b) on the basis of subsequent information, the Minister for Primary Industries and Energy is satisfied that the field as so prescribed is actually 2 or more separate fields;

that Minister may, within 3 years after that by-law comes into effect, make by-laws (**‘replacement by-laws’**):

- (c) of which one:
  - (i) revokes the original by-law from the day that by-law came into effect; and
  - (ii) substitutes for the original by-law a new by-law that, with effect from that day, prescribes one of the separate fields as an exempt onshore field or an exempt offshore field; and
- (d) of which the other, or each of the others, prescribes the other separate field or each of the other separate fields, with effect from that day, as an exempt onshore field or an exempt offshore field.

“(3) Within 90 days after the Minister for Primary Industries and Energy makes a replacement by-law under subsection (1), the CEO must, having regard to the information (if any) provided by the producer and to other relevant information:

- (a) work out the amount of duty (if any) that is shortpaid by the relevant producer to the Commonwealth having regard to the replacement by-law; and
- (b) notify the relevant producer, in writing, of that amount.

“(4) Within 90 days after the Minister for Primary Industries and Energy makes replacement by-laws under subsection (2), the CEO must, having regard to the information (if any) provided by the producer and to other relevant information:

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 7—continued**

- (a) work out the amount of duty (if any) overpaid by the relevant producer to the Commonwealth having regard to those replacement by-laws; and
- (b) notify the relevant producer, in writing, of that amount.

“(5) If a replacement by-law made under subsection (1) is published in the *Gazette*, no action lies against the relevant producer for recovery of the amount of duty shortpaid until 60 days after notification under subsection (3) of the duty shortpaid.

“(6) If an amount is notified under subsection (3):

- (a) the amount is, subject to subsections (13) and (14), payable by the relevant producer to the Commonwealth within 60 days after it is so notified; and
- (b) if that amount is paid during that period, no interest is payable on that amount or on any part of that amount.

“(7) If replacement by-laws made under subsection (2) are published in the *Gazette*, no action lies against the Commonwealth for recovery of the amount of duty overpaid until 60 days after notification under subsection (4) of the duty overpaid.

“(8) If an amount is notified under subsection (4):

- (a) the amount is, subject to subsections (13) and (14), payable by the Commonwealth to the relevant producer within 60 days after the day so notified; and
- (b) if that amount is paid during that period, no interest is payable on that amount or on any part of that amount.

“(9) If, within 60 days after an amount is notified to a relevant producer under subsection (3), the producer fails to pay that amount to the Commonwealth, interest may be charged only with effect from the day on which the replacement by-law was published in the *Gazette*.

“(10) If, within 60 days after an amount is notified to a relevant producer under subsection (4), the Commonwealth fails to pay that amount to the producer, interest may be charged only with effect from the day on which the replacement by-laws were published in the *Gazette*.

“(11) Nothing in this section prevents the Minister for Finance allowing a relevant producer, under section 70C of the *Audit Act 1901*, to pay the amount notified to the relevant producer under subsection (3) in instalments in accordance with the provisions of that Act and, if the Minister so allows, subsections (6) and (9) do not apply.

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 7—continued**

“(12) In allowing for the payment of an amount in instalments, the Minister for Finance may require the payment of interest on amounts remaining unpaid from time to time after the day on which the replacement by-law was published in the *Gazette*.

“(13) A relevant producer:

- (a) who has been notified of an amount of duty shortpaid under subsection (3) or an amount of duty overpaid under subsection (4); and
- (b) who is of the opinion that the decision as to that amount is incorrect; may apply to the Administrative Appeals Tribunal under paragraph 162C(1)(i) for review of the decision.

“(14) If a relevant producer applies to the Administrative Appeals Tribunal for review of the decision as to the amount of duty shortpaid or overpaid:

- (a) the period starting with the application and ending with the final determination by the Administrative Appeals Tribunal or by a Court on appeal from the Tribunal of the amount of duty shortpaid or overpaid is to be disregarded in working out, for the purposes of subsection (5), (6), (7) or (8), whether 60 days have passed since that amount was notified; and
- (b) if it is determined, or ultimately determined, that the amount of duty shortpaid or overpaid is more or less than the amount notified by the CEO, the notification by the CEO is to be treated as if it were, and had always been, a notification of the amount determined or ultimately determined by the Tribunal or Court.”.

**14. Section 169:**

After “authorise the making” insert “by the CEO”.

**NOTE ABOUT SECTION HEADING**

The heading to section 165 is altered by omitting “Minister” and substituting “CEO”.

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**SCHEDULE 8**

Section 10

**AMENDMENTS OF THE SPIRITS ACT 1906**

**1. Section 22:**

Add at the end:

“(4) Without limiting the generality of the power conferred on the CEO under subsection 4(4) of the *Customs Administration Act 1985*, the CEO may give directions in writing under that subsection concerning:

- (a) the circumstances in which the powers under this section may be exercised; and
- (b) the officers of Customs who are entitled to exercise those powers; and
- (c) the manner and frequency of reporting to the CEO concerning the exercise of those powers.

“(5) A direction given for the purposes of subsection (4) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.”.

**2. Sections 24 and 25:**

Repeal the sections.

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*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 9**

Section 11

**AMENDMENTS CONSEQUENTIAL ON THE ESTABLISHMENT OF  
THE OFFICE OF CHIEF EXECUTIVE OFFICER OF CUSTOMS**

***Anti-Dumping Authority Act 1988***

**1. Amendment of several provisions:**

The provisions set out below are amended by omitting “Comptroller” (wherever occurring) and substituting “CEO”:

subsection 3(1) (definition of “negative *prima facie* decision”)

subsections 7(1) and (2)

subsections 8(1), (2) and (3)

subsections 8B(1), (2) and (3)

subsection 28(1)

subsection 33(2).

**2. Subsection 3(1) (definition of “Comptroller”):**

Omit the definition.

**3. Subsection 3(1):**

Insert the following definition:

“ ‘CEO’ means the Chief Executive Officer of Customs;”.

***Bounty and Capitalisation Grants (Textile Yarns) Act 1981***

**4. Amendment of several provisions:**

The provisions set out below are amended by omitting “Comptroller-General” (wherever occurring) and substituting “CEO”:

subsection 2(1) (definitions of “approved form”, “registered textile factory” and “textile fibres”)

subsection 2(3)

subsection 3(5)

section 4

subsection 5(3)

subsection 8(1)

subsections 9(1) and (2)

subsections 10(3), (4) and (5)

subsections 10A(2), (4) and (5)

subsections 10B(2) and (4)

subsections 10BA(2), (3), (4) and (5)

subsections 10BB(4) and (6)

subsections 10C(1), (2) and (3)

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 9—continued**

subsection 10D(2)  
subsections 11(2), (3), (4), (5) and (6)  
subsection 12(1)  
section 13  
subsection 14(1)  
subsection 16(4)  
subsection 18B(3)  
subsection 19(1)  
section 21.

**5. Section 1A:**

Omit “Comptroller-General”, substitute “Chief Executive Officer of Customs”.

**6. Subsection 2(1) (definition of “Comptroller-General”):**

Omit the definition.

**7. Subsection 2(1):**

Insert the following definition:

“ ‘CEO’ means the Chief Executive Officer of Customs;”.

**8. Subsection 7(1A):**

Omit “Comptroller”, substitute “CEO”.

**9. Subsection 21C(5):**

Omit “Comptroller”, substitute “CEO”.

***Bounty (Books) Act 1986***

**10. Amendment of several provisions:**

The provisions set out below are amended by omitting “Comptroller” (wherever occurring) and substituting “CEO”:

subsection 4(1) (definitions of “approved form” and “recognised educational institution”)  
subsection 4(2)  
subsections 5(1), (2), (3), (7), (8) and (9)  
subsections 7(1), (2) and (3)  
section 9  
subsection 10(3)  
subsection 12(1)  
subsection 13(1)

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 9—continued**

subsections 14(4), (5) and (6)  
subsections 15(2), (4) and (5)  
subsections 16(2) and (4)  
subsections 17(1), (2) and (3)  
subsection 18(2)  
subsections 19(2), (3), (7), (9), (10) and (12)  
subsection 20(1)  
section 21  
subsection 22(1)  
subsection 25(6)  
subsection 29(3)  
subsection 31(1)  
subsection 33(1)  
subsection 34(1).

**11. Section 3:**

Omit “Comptroller”, substitute “Chief Executive Officer of Customs”.

**12. Subsection 4(1) (definition of “Comptroller”):**

Omit the definition.

**13. Subsection 4(1):**

Insert the following definition:

“ ‘CEO’ means the Chief Executive Officer of Customs;”.

***Bounty (Citric Acid) Act 1991***

**14. Amendment of several provisions:**

The provisions set out below are amended by omitting “Comptroller” (wherever occurring) and substituting “CEO”:

subsection 4(1) (definitions of “approved form” and “registered person”)  
section 7  
subsections 8(2), (3) and (4)  
subsection 10(1)  
subsection 11(1)  
subsections 12(2) and (4)  
subsections 13(1), (2) and (3)  
subsection 14(2)  
subsections 15(2), (3), (4), (6), (8), (10) and (11)  
subsection 16(1)  
section 17



*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 9—continued**

subsection 18(1)  
subsection 21(6)  
subsection 25(3)  
subsection 27(1)  
subsection 28(1)  
subsection 29(1).

**15. Section 3:**

Omit “Comptroller”, substitute “Chief Executive Officer of Customs”.

**16. Subsection 4(1) (definition of “Comptroller”):**

Omit the definition.

**17. Subsection 4(1):**

Insert the following definition:

“ ‘CEO’ means the Chief Executive Officer of Customs;”.

***Bounty (Computers) Act 1984***

**18. Amendment of several provisions:**

The provisions set out below are amended by omitting “Comptroller-General” (wherever occurring) and substituting “CEO”:

subsection 3(1) (definition of “approved form”)  
subsection 6(6)  
section 8  
subsection 9(6A)  
section 11  
subsection 12(1)  
subsections 13(2), (3) and (4)  
subsections 14(2), (4) and (5)  
subsections 15(2) and (4)  
subsections 16(2), (3), (4) and (5)  
subsections 17(3) and (4)  
subsections 18(1), (2) and (3)  
subsection 19A(2)  
subsections 20(2), (3), (4), (6), (7), (10) and (12)  
subsection 21(1)  
section 22  
subsection 23(1)  
subsection 25(6)  
subsection 30(1)

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 9—continued**

subsection 32(1)

subsection 33(1).

**19. Section 2A:**

Omit “Comptroller-General”, substitute “Chief Executive Officer of Customs”.

**20. Subsection 3(1) (definition of “Comptroller-General”):**

Omit the definition.

**21. Subsection 3(1):**

Insert the following definition:

“ ‘CEO’ means the Chief Executive Officer of Customs;”.

*Bounty (Fuel Ethanol) Act 1994*

**22. Amendment of several provisions:**

The provisions set out below are amended by omitting “Comptroller” (wherever occurring) and substituting “CEO”:

subsection 5(1) (definition of “approved form”)

section 11

subsections 26(2), (4), (5), (6) and (7)

subsection 29(1)

subsections 30(3), (5) and (6)

subsections 31(1), (2), (3) and (4)

subsection 34(1)

subsection 35(1)

subsection 37(1)

subsections 38(1) and (3)

subsection 53(2)

subsection 58(3)

subsection 60(1)

subsection 61(1).

**23. Section 4:**

Omit “Comptroller”, substitute “Chief Executive Officer of Customs”.

**24. Subsection 5(1) (definition of “Comptroller”):**

Omit the definition.

**25. Subsection 5(1):**

Insert the following definition:

“ ‘CEO’ means the Chief Executive Officer of Customs;”.

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 9—continued**

**26. Subsection 26(5):**

Omit “Comptroller’s”, substitute “CEO’s”.

**27. Subsection 30(6):**

Omit “Comptroller’s”, substitute “CEO’s”.

***Bounty (Machine Tools and Robots) Act 1985***

**28. Amendment of several provisions:**

The provisions set out below are amended by omitting “Comptroller-General” (wherever occurring), and substituting “CEO”:

subsection 4(1) (definition of “approved form”)

subsections 13(1), (2) and (3)

section 15

subsections 16(11A), (12) and (13)

subsection 18(1)

section 19

subsection 20(1)

subsections 21(2), (3) and (4)

subsections 22(2), (4) and (5)

subsections 23(2) and (4)

subsections 24(2), (3), (4) and (5)

subsections 25(3) and (4)

section 26

subsections 28(2), (3), (4), (7), (8), (11), (12), (13) and (15)

subsection 29(1)

section 30

subsection 31(1)

subsection 33(6)

subsection 37(3)

subsection 38(1)

subsection 40(1)

subsection 41(1).

**29. Section 3:**

Omit “Comptroller-General”, substitute “Chief Executive Officer of Customs”.

**30. Subsection 4(1) (definition of “Comptroller-General”):**

Omit the definition.

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 9—continued**

**31. Subsection 4(1):**

Insert the following definition:

“ ‘CEO’ means the Chief Executive Officer of Customs;”.

*Bounty (Photographic Film) Act 1989*

**32. Amendment of several provisions:**

The provisions set out below are amended by omitting “Comptroller” (wherever occurring) and substituting “CEO”:

subsection 4(1) (definitions of “approved form” and “registered person”)

section 8

subsections 9(2), (3) and (4)

subsection 11(1)

subsection 12(1)

subsections 13(2) and (4)

subsections 14(1), (2) and (3)

subsection 15(2)

subsections 16(2), (3), (6), (8), (10) and (11)

subsection 17(1)

section 18

subsection 19(1)

subsection 22(6)

subsection 26(3)

subsection 28(1)

subsection 29(1)

subsection 30(1).

**33. Section 3:**

Omit “Comptroller”, substitute “Chief Executive Officer of Customs”.

**34. Subsection 4(1) (definition of “Comptroller”):**

Omit the definition.

**35. Subsection 4(1):**

Insert the following definition:

“ ‘CEO’ means the Chief Executive Officer of Customs;”.

*Bounty (Printed Fabrics) Act 1981*

**36. Amendment of several provisions:**

The provisions set out below are amended by omitting “Comptroller-General” (wherever occurring) and substituting “CEO”:

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 9—continued**

subsection 2(1) (definitions of “approved form”, “prescribed yarn” and “registered clothing factory”)  
subsection 2(2)  
subsections 3(1) and (2)  
section 4  
subsection 8(1)  
section 9  
subsections 10(3), (4) and (5)  
subsections 10A(2), (4) and (5)  
subsections 10B(2) and (4)  
subsections 10C(1), (2) and (3)  
subsection 10D(2)  
subsections 11(2), (3), (4), (5), (6) and (7)  
section 12  
section 13  
subsection 14(1)  
subsection 16(4)  
subsection 19(1)  
section 21.

**37. Section 1A:**

Omit “Comptroller-General”, substitute “Chief Executive Officer of Customs”.

**38. Subsection 2(1) (definition of “Comptroller-General”):**

Omit the definition.

**39. Subsection 2(1):**

Insert the following definition:

“ ‘CEO’ means the Chief Executive Officer of Customs;”.

***Bounty (Ships) Act 1989***

**40. Amendment of several provisions:**

The provisions set out below are amended by omitting “Comptroller” (wherever occurring) and substituting “CEO”:

subsection 4(1) (definition of “approved form”)  
subsection 4(2)  
subsections 6(1), (2) and (3)  
section 7  
subsection 9(1)

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 9—continued**

subsections 11(2), (3) and (4)  
subsection 12(1)  
subsections 13(2), (4) and (5)  
subsections 14(2) and (4)  
subsections 15(1), (2) and (3)  
subsection 16(2)  
subsection 18(1)  
section 19  
subsection 20(1)  
subsection 23(6)  
subsection 27(3)  
subsection 29(1)  
subsection 31(1)  
subsection 32(1).

**41. Section 3:**

Omit “Comptroller”, substitute “Chief Executive Officer of Customs”.

**42. Subsection 4(1) (definition of “Comptroller”):**

Omit the definition.

**43. Subsection 4(1):**

Insert the following definition:

“ ‘CEO’ means the Chief Executive Officer of Customs;”.

*Coal Excise Act 1949*

**44. Amendment of several provisions:**

The provisions set out below are amended by omitting “Comptroller” and substituting “CEO”:

subsection 15(2)  
section 17  
section 27A.

**45. Section 2A:**

Omit “Comptroller”, substitute “Chief Executive Officer of Customs”.

**46. Section 4 (definition of “the Comptroller”):**

Omit the definition.

**47. Section 4:**

Insert the following definition:

“ ‘CEO’ means the Chief Executive Officer of Customs;”.

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 9—continued**

***Commerce (Trade Descriptions) Act 1905***

**48. Amendment of several provisions:**

The provisions set out below are amended by omitting “Comptroller-General” (wherever occurring) and substituting “CEO”:

subsections 7(2) and (3)  
section 10  
subsections 11(2) and (3)  
section 13  
subsections 15(1) and (2).

**49. Section 1A:**

Omit “Comptroller-General”, substitute “Chief Executive Officer”.

**50. Section 3:**

Insert the following definition:

“ ‘CEO’ means the Chief Executive Officer of Customs;”.

***Customs Act 1901***

**51. Amendment of several provisions:**

The provisions set out below are amended by omitting “Comptroller” (wherever occurring) and substituting “CEO”:

subsection 4(1) (definitions of “authorised officer” and “Officer of Customs”)  
subsections 4A(1) and (1A)  
subsections 5A(1), (2), (4) and (5)  
subsections 5B(1), (2), (4) and (5)  
subsections 13(1), (3), (4) and (5)  
subsections 15(1) and (2)  
section 17  
section 19  
subsections 28(2) and (3)  
subsections 30A(2), (3), (4) and (5)  
subsections 33A(2) and (4)  
subsections 33B(2) and (4)  
subsections 42(1B) and (1C)  
section 44  
subsection 45(1)  
subsection 58A(6)  
subsection 58B(6)

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 9—continued**

subsection 60(2)  
subsections 67C(1), (3), (4), (5), (6), (7), (8), (9) and (11)  
subsections 77A(2), (4), (5), (6), (7), (8), (9), (11) and (13)  
subsection 78(2)  
subsection 79(1)  
section 80  
subsections 81(1), (2) and (3)  
subsections 82(1), (3) and (5)  
subsections 83(2), (3), (4) and (5)  
subsections 84(1), (2) and (3)  
subsections 86(1), (1A), (1B), (3), (5) and (7)  
subsections 87(1), (2), (4), (5), (6) and (7)  
subsections 105(1) and (2)  
subsections 114B(1), (3), (5), (6), (8) and (10)  
subsections 119(2B) and (3)  
subsections 122A(2), (4), (5), (6), (7), (8), (9) and (11)  
section 126  
section 126C  
subsections 132B(1), (2), (3), (4) and (5)  
subsections 132C(1), (2) and (5)  
section 132D  
subsection 137(3)  
section 146  
subsections 153E(5), (6) and (7)  
subsections 153J(1) and (3)  
subsections 153K(1), (2) and (3)  
subsections 153L(1) and (4)  
subsections 153P(1) and (2)  
subsection 153Q(1)  
subsection 153R(1)  
subsections 161J(2) and (3)  
subsection 161K(1)  
subsections 161L(1), (2) and (3)  
subsections 162(3) and (4)  
subsections 162A(2), (4), (5) and (8)  
subsection 164(2)  
section 164B  
subsections 165(1), (3) and (4)  
subsections 165A(1), (2) and (3)  
subsection 180(2)  
subsection 181(2)



*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 9—continued**

subsection 183C(1)  
subsection 183CA(1)  
subsections 183CB(1) and (2)  
subsections 183CC(1), (2), (3), (4), (4A) and (5)  
subsection 183CD(4)  
subsections 183CE(1) and (2)  
subsections 183CF(1), (2) and (3)  
subsections 183CG(1), (3), (6), (7) and (8)  
subsections 183CJ(1) and (4)  
subsections 183CK(1), (2), (3) and (4)  
section 183CM  
subsections 183CN(1) and (2)  
section 183CP  
subsections 183CQ(1), (4), (5), (6) and (7)  
subsections 183CR(1), (2), (3) and (4)  
subsections 183CS(1), (2), (4) and (5)  
subsection 183D(2)  
subsections 183DA(2), (3), (4) and (5)  
subsections 183DC(1) and (3)  
subsections 183DD(1), (2) and (3)  
subsection 183S(1)  
subsection 203P(2)  
subsection 208(1)  
section 208D  
subsection 214AA(1)  
subsection 214AB(2)  
subsections 214AC(1), (2), (4), (5), (7) and (8)  
subsections 219R(1) and (14) (definition of “authorised officer”)  
subsection 219T(1)  
subsection 219U(1)  
subsections 219V(3), (4) and (8)  
subsection 219X(1)  
subsections 219Y(4) and (5)  
subsections 219ZA(1), (2) and (3)  
subsection 219ZC(4)  
subsection 219ZH(6)  
section 228A  
section 228B  
subsection 233BA(1)  
subsections 234(2A) and (2B)  
subsection 240(3)

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 9—continued**

subsection 240A(5)  
subsection 243B(1)  
subsections 243CA(2) and (4)  
subsections 243E(1) and (6)  
subsections 243F(1), (2), (3) and (3A)  
subsection 243G(2A)  
subsection 243K(2)  
subsection 243L(1)  
subsections 243T(1), (5) and (6)  
subsections 243U(1), (2), (3), (4) and (5)  
subsection 245(1)  
section 253  
section 256  
subsection 264(1)  
subsection 267(1)  
subsections 268(1) and (2)  
section 269  
subsection 269B(1) (definitions of “gazettal day” and “last day for submissions”)  
subsection 269D(4)  
subsection 269F(1)  
subsections 269G(2) and (3)  
subsections 269H(1) and (2)  
subsections 269J(1) and (3)  
subsections 269K(1), (3) and (4)  
subsections 269L(1), (2), (3), (4), (5) and (6)  
subsections 269M(1), (3), (4) and (5)  
subsections 269N(1), (2), (3), (4) and (5)  
subsections 269P(1), (2), (3) and (4)  
subsections 269Q(1), (2), (3) and (4)  
subsection 269R(1)  
subsections 269SA(1) and (2)  
subsection 269SB(1)  
subsections 269SC(1), (1A), (2), (3), (4) and (5)  
subsections 269SD(1), (2) and (3)  
subsections 269SE(1) and (2)  
subsections 269SF(1) and (3)  
subsections 269SH(1), (3), (3A), (4), (5), (6), (7), (8), (10) and (13)  
(definition of “affected person”)  
subsections 269SJ(2) and (3)  
section 269SK

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 9—continued**

subsection 269T(1) (definition of “interested party”)  
subsection 269TAH(2)  
subsections 269TA(1), (2) and (3)  
subsections 269TC(1), (2), (3) and (4)  
subsections 269TD(1), (2), (3) and (4)  
subsections 269TE(1) and (3)  
subsections 269TF(1), (2) and (3)  
subsection 269TG(3A)  
subsection 269TH(4)  
subsection 269TJ(12)  
subsection 269TK(6)  
subsections 269U(1) and (8)  
subsection 269V(1)  
subsection 269W(2)  
subsections 269X(1), (2), (4), (5), (6), (7) and (8)  
subsection 269Y(1)  
subsections 269Z(1) and (2)  
subsections 269ZB(1), (3) and (4)  
subsections 269ZC(1) and (2)  
section 271  
section 272  
subsections 273(1), (2) and (3)  
section 273A  
subsections 273GAA(4), (8) and (9)  
subsection 273GA(1)  
subsection 273H(1)  
section 274  
section 275  
subsections 275A(4) and (5).

**52. Amendment of several provisions:**

The provisions set out below are amended by omitting “Comptroller’s” (wherever occurring) and substituting “CEO’s”:

subsection 153E(4)  
subsection 219M(2)  
subsection 219Q(2)  
subsection 243U(2)  
subsections 269TA(1) and (2)  
subsection 269TE(2)  
subsection 269TG(3A)  
subsection 269TH(4)

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 9—continued**

subsection 269TJ(12)  
subsection 269TK(6)  
subsection 269ZB(4)  
subsection 273GAA(8).

**53. Amendment of several provisions:**

The provisions set out below are amended by omitting “Collector of Customs” (wherever occurring) and substituting “Regional Director”:

subsection 13(5)  
subsection 78(2)  
subsection 162A(8)  
subsection 180(2)  
subsection 183CJ(1)  
subsection 183CQ(5)  
subsection 183CR(3)  
subsection 183D(2)  
subsection 208(1)  
section 256  
subsections 275A(4) and (5).

**54. Subsection 4(1) (definition of “Comptroller”):**

Omit the definition.

**55. Subsection 4(1):**

Insert the following definition:

“ ‘CEO’ means the Chief Executive Officer of Customs;”.

**56. Section 7:**

Omit “Comptroller”, substitute “Chief Executive Officer of Customs”.

**57. Subsection 64AB(6):**

Omit “Comptroller-General”, substitute “CEO”.

**58. Paragraphs 183CJ(1)(a) and (b):**

Omit “Collector” (wherever occurring), substitute “Regional Director”.

**59. Division 2 of Part XVB (heading):**

Omit “*Comptroller*”, substitute “*CEO*”.

*Customs, Excise and Bounty Legislation*  
*Amendment No. 85, 1995*

**SCHEDULE 9—continued**

**NOTES ABOUT SECTION AND SUBSECTION HEADINGS**

1. The heading to section 105 is altered by omitting “Comptroller’s” and substituting “CEO’s”.
2. The heading to subsection 153E(4) is altered by omitting “Comptroller” and substituting “CEO”.
3. The heading to subsection 153E(5) is altered by omitting “Comptroller” and substituting “CEO”.
4. The heading to subsection 153E(6) is altered by omitting “Comptroller” and substituting “CEO”.
5. The heading to subsection 153K(3) is altered by omitting “Comptroller” and substituting “CEO”.
6. The heading to subsection 153R(1) is altered by omitting “Comptroller” and substituting “CEO”.
7. The heading to section 183CR is altered by omitting “Comptroller” and substituting “CEO”.
8. The heading to section 183CS is altered by omitting “Comptroller” and substituting “CEO”.
9. The heading to section 269TA is altered by omitting “Comptroller” and substituting “CEO”.
10. The heading to section 269TE is altered by omitting “Comptroller” and substituting “CEO”.
11. The heading to section 271 is altered by omitting “Comptroller” and substituting “CEO”.

***Customs Securities (Penalties) Act 1981***

**60. Section 2A:**

Omit “Comptroller-General”, substitute “Chief Executive Officer”.

***Customs Tariff Act 1987***

**61. Amendment of several provisions:**

The provisions set out below are amended by omitting “Comptroller” (wherever occurring) and substituting “CEO”:

subsection 13(3)

subsection 26(4)

item 6(c) of Part I of Schedule 4

item 14 of Part J of Schedule 4

item 20 of Part I of Schedule 4

item 32 of Part II of Schedule 4

item 35A of Part III of Schedule 4.

**62. Section 3:**

Omit “Comptroller”, substitute “Chief Executive Officer of Customs”.

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 9—continued**

**63. Subsection 5(1):**

Insert the following definition:

“ ‘CEO’ means the Chief Executive Officer of Customs;”.

*Customs Undertakings (Penalties) Act 1981*

**64. Section 2A:**

Omit “Comptroller-General”, substitute “Chief Executive Officer”.

*Distillation Act 1901*

**65. Amendment of several provisions:**

The provisions set out below are amended by omitting “Comptroller” and substituting “CEO”:

subsection 6(1) (definition of “Gazette Notice”)

subsection 24(1)

section 36

section 46

subsection 82B(1).

**66. Section 3:**

Omit “Comptroller”, substitute “Chief Executive Officer of Customs”.

**67. Subsection 6(1) (definition of “Comptroller”):**

Omit the definition.

**68. Subsection 6(1):**

Insert the following definition:

“ ‘CEO’ means the Chief Executive Officer of Customs;”.

*Excise Act 1901*

**69. Amendment of several provisions:**

The provisions set out below are amended by omitting “Comptroller” (wherever occurring) and substituting “CEO”:

subsection 4(1) (definitions of “authorised officer”, “Officer of Customs” and “Gazette notice”)

subsection 4AA(1)

section 18

section 19

section 43

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 9—continued**

section 44  
subsection 50(1)  
subsections 58(1A), (4) and (5)  
subsections 59A(1), (2), (3), (4) and (5)  
subsections 59B(1), (2) and (5)  
section 59C  
subsection 77B(3)  
subsection 78(4)  
subsections 78AAA(1), (4) and (5)  
subsection 78A(2)  
subsections 80(1), (2) and (3)  
subsections 80A(1), (2) and (3)  
section 97  
section 99  
subsection 128A(5)  
subsection 134(1)  
section 142  
section 145  
section 153  
section 154  
subsection 160B(1)  
subsection 162C(1)  
subsections 165(1) and (2)  
section 166  
section 167.

**70. Amendment of several provisions:**

The provisions set out below are amended by omitting “Collector of Customs” and substituting “Regional Director”:

Schedule II  
Schedule III  
Schedule V  
Schedule VII.

**71. Subsection 4(1) (definition of “Comptroller”):**

Omit the definition.

**72. Subsection 4(1):**

Insert the following definition:

“ ‘CEO’ means the Chief Executive Officer of Customs;”.

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 9—continued**

**73. Section 7:**

Omit “Comptroller”, substitute “Chief Executive Officer of Customs”.

*Excise Tariff Act 1921*

**74. Amendment of several provisions:**

The provisions set out below are amended by omitting “Comptroller” (wherever occurring) and substituting “CEO”:

subsections 3A(1) and (2)

subsection 6A(8)

subsection 6AA(7)

item 9A of the Schedule.

**75. Section 1A:**

Omit “Comptroller”, substitute “Chief Executive Officer of Customs”.

**76. Section 3:**

Insert the following definition:

“ ‘CEO’ means the Chief Executive Officer of Customs;”.

*Liquefied Petroleum Gas (Grants) Act 1980*

**77. Amendment of several provisions:**

The provisions set out below are amended by omitting “Comptroller-General” (wherever occurring) and substituting “CEO”:

subsections 7A(5), (6), (7), (8), (8A), (8C), (9), (10), (11) and (18)

section 8

section 15

subsection 15A(1).

**78. Section 2A:**

Omit “Comptroller-General”, substitute “Chief Executive Officer of Customs”.

**79. Section 3 (definition of “Comptroller-General”):**

Omit the definition.

**80. Section 3:**

Insert the following definition:

“ ‘CEO’ means the Chief Executive Officer of Customs;”.



*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 9—continued**

*Narcotic Drugs Act 1967*

**81. Amendment of several provisions:**

The provisions set out below are amended by omitting “Comptroller” and substituting “CEO”:

section 6

subsection 12(1)

subsection 14A(1)

subsection 22(3)

subsection 24(2).

**82. Section 3:**

Omit “Comptroller”, substitute “Chief Executive Officer of Customs;”

**83. Subsection 4(1) (definitions of “Collector” and “Comptroller”):**

Omit the definitions.

**84. Subsection 4(1):**

Insert the following definitions:

“ ‘CEO’ means the Chief Executive Officer of Customs;

‘Collector’ has the same meaning as in the *Customs Act 1901*;”.

*Psychotropic Substances Act 1976*

**85. Amendment of several provisions:**

The provisions set out below are amended by omitting “Comptroller-General” and substituting “Chief Executive Officer”:

section 2A

subsection 9(3).

*Spirits Act 1906*

**86. Amendment of several provisions:**

The provisions set out below are amended by omitting “Comptroller-General” (wherever occurring) and substituting “Chief Executive Officer”:

section 2A

subsection 8(2)

section 13.

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 9—continued**

***States Grants (Petroleum Products) Act 1965***

**87. Amendment of several provisions:**

The provisions set out below are amended by omitting “Comptroller-General” (wherever occurring) and substituting “Chief Executive Officer”:

section 1A

subsections 5(2), (3) and (3A)

section 7.

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*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 10**

Section 12

**OTHER CONSEQUENTIAL AMENDMENTS**

*Administrative Decisions (Judicial Review) Act 1977*

**1. Subparagraph (e)(iv) of Schedule 2:**

Omit “Writs of Assistance, or Customs Warrants,”, substitute “seizure warrants issued under Division 1 of Part XII of the *Customs Act 1901*”.

**2. Subparagraph (f)(iii) of Schedule 2:**

Omit “, Writs of Assistance or Customs Warrants”, substitute “or seizure warrants issued under Division 1 of Part XII of the *Customs Act 1901*”.

*Agricultural and Veterinary Chemicals (Administration) Act 1992*

**3. Subsection 69B(4):**

Omit the words after paragraph (b), substitute:  
“the *Customs Act 1901* has effect as if the constituent or product included in that importation were goods described as forfeited to the Crown under section 229 of that Act because they were prohibited imports within the meaning of that Act.”.

*Migration Act 1958*

**4. Subsection 260(3):**

Omit “writ of assistance”, substitute “seizure warrant issued under Division 1 of Part XII of the *Customs Act 1901*”.

*Therapeutic Goods Act 1989*

**5. Subsection 14(4):**

Omit the words after paragraph (b), substitute:  
“the *Customs Act 1901* has effect as if the goods included in that importation or exportation were goods described as forfeited to the Crown under section 229 of that Act because they were:

- (c) prohibited imports within the meaning of that Act; or
  - (d) prohibited exports within the meaning of that Act;
- as the case requires.”.

**6. Subsection 20(3):**

Omit the words after paragraph (b), substitute the following:

*Customs, Excise and Bounty Legislation  
Amendment No. 85, 1995*

**SCHEDULE 10—continued**

“the *Customs Act 1901* has effect as if the goods included in that importation or exportation were goods described as forfeited to the Crown under section 229 of that Act because they were:

- (c) prohibited imports within the meaning of that Act; or
  - (d) prohibited exports within the meaning of that Act;
- as the case requires.”.

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*[Minister's second reading speech made in—  
Senate on 30 March 1995  
House of Representatives on 30 June 1995]*