

2004-2005-2006

The Parliament of the  
Commonwealth of Australia

THE SENATE

*Presented and read a first time*

**Customs Legislation Amendment  
(Modernising Import Controls and  
Other Measures) Bill 2006**

**No.     , 2006**

*(Justice and Customs)*

**A Bill for an Act to amend the law relating to  
customs, and for related purposes**

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1     **A Bill for an Act to amend the law relating to**  
2     **customs, and for related purposes**

3     The Parliament of Australia enacts:

4     **1 Short title**

5                     This Act may be cited as the *Customs Legislation Amendment*  
6                     (*Modernising Import Controls and Other Measures*) Act 2006.

7     **2 Commencement**

8                     (1) Each provision of this Act specified in column 1 of the table  
9                     commences, or is taken to have commenced, in accordance with  
10                    column 2 of the table. Any other statement in column 2 has effect  
11                    according to its terms.  
12

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Schedule 1, items 1 to 4	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	
3. Schedule 1, item 5	The later of: (a) at the same time as the provision(s) covered by table item 2; and (b) immediately after the commencement of item 1 of Schedule 7 to the <i>Customs Legislation Amendment (Border Compliance and Other Measures) Act 2006</i> .  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
4. Schedule 1, items 6 to 37	At the same time as the provision(s) covered by table item 2.	
5. Schedule 2	The later of: (a) the day after this Act receives the Royal Assent; and (b) the day on which Articles 11 and 12 of Chapter 3 of the Singapore-Australia Free Trade Agreement, as re-tabled in the House of Representatives on 31 May 2005, come into force for Australia.  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.  The Minister must announce by notice in the <i>Gazette</i> the day on which the Articles come	

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**Commencement information**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>

into force for Australia.

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

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(2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

7

**3 Schedule(s)**

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

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## **Schedule 1—Import controls**

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### ***Customs Act 1901***

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#### **1 Subsection 64AB(12)**

6 Before “Division 5”, insert “Subdivision A of”.

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#### **2 Paragraph 71AAAR(2)(a)**

8 Before “Division 5”, insert “Subdivision A of”.

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#### **3 Paragraph 71H(2)(a)**

10 Before “Division 5”, insert “Subdivision A of”.

11

#### **4 Subsection 119B(2A)**

12 Before “Division 5”, insert “Subdivision A of”.

13

#### **5 Paragraph 203(3)(e)**

14 Before “Division 5”, insert “Subdivision A of”.

15

#### **6 Paragraph 205A(d)**

16 After “return of the goods”, insert “may be made and a claim”.

17

#### **7 After paragraph 205A(d)**

18 Insert:

19 (da) a statement that a claim for the return of the goods cannot be  
20 made if:

- 21 (i) an infringement notice for an offence in relation to the  
22 importation of the goods has been served with the  
23 seizure notice; and  
24 (ii) the penalty specified in the infringement notice is paid  
25 within the period within which, or by the time by which,  
26 the penalty is required to be paid; and  
27 (iii) the infringement notice is not withdrawn;

28

#### **8 Paragraph 205A(e)**

29 Omit “made such a claim”, substitute “made a claim for the return of  
30 the goods”.

1 **9 Subsection 205B(1)**

2 Omit “If”, substitute “Subject to subsection (1A), if”.

3 **10 After subsection 205B(1)**

4 Insert:

5 (1A) A claim may not be made for the return of goods that have been  
6 taken to be condemned as forfeited to the Crown under  
7 section 243ZK.

8 **11 After paragraph 205C(b)**

9 Insert:

10 (ba) a claim for the return of the goods may be made under  
11 section 205B; and

12 **12 After paragraph 205D(1)(a)**

13 Insert:

14 (aa) a claim for the return of the goods may be made under  
15 section 205B; and

16 **13 After paragraph 205D(2)(a)**

17 Insert:

18 (aa) the goods have been taken to be condemned as forfeited to  
19 the Crown under section 243ZK; or

20 **14 After Subdivision GA of Division 1 of Part XII**

21 Insert:

22 **Subdivision GB—Surrender of prescribed prohibited imports**

23 **209M Application of Subdivision**

24 This Subdivision applies to goods that are prohibited imports of a  
25 kind prescribed by regulations made for the purposes of this  
26 section.

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1     **209N Surrender of goods**

2             (1) An officer of Customs may, instead of seizing goods under  
3             section 203B, permit a person to surrender the goods to the officer  
4             in a section 234AA place if:

5                 (a) the officer has reasonable grounds to believe that the goods:

6                     (i) have been imported by the person; and

7                     (ii) have not been concealed from Customs by the person;  
8                     and

9                     (iii) are accompanied personal or household effects of the  
10                     person; and

11                 (b) the person has been informed by the officer, in writing, of the  
12                 available options for dealing with the goods and the  
13                 consequences of exercising each of those options; and

14                 (c) the person has indicated to Customs, in writing, that he or she  
15                 intends to surrender the goods; and

16                 (d) the officer has indicated to the person that the goods may be  
17                 surrendered to the officer.

18             (2) Without limiting the meaning of *concealed* in  
19             subparagraph (1)(a)(ii), a person is taken to have concealed goods  
20             from Customs if the person was required to give information about  
21             the goods to Customs in accordance with section 71, 71K or 71L  
22             and the person failed to do so.

23     **209P Effect of surrender**

24             If goods are surrendered under section 209N:

25                 (a) proceedings cannot be brought for an offence against this Act  
26                 in relation to the importation of the goods; and

27                 (b) the goods are taken to be condemned as forfeited to the  
28                 Crown, such that the title to the goods immediately vests in  
29                 the Commonwealth to the exclusion of all other interests in  
30                 the goods and the title cannot be called into question.

31     **209Q Right of compensation in certain circumstances for goods**  
32             **disposed of or destroyed**

33             (1) Despite the disposal or destruction of goods taken to be condemned  
34             as forfeited to the Crown because the goods have been surrendered

1 under section 209N, a person may apply to a court of competent  
2 jurisdiction under this section for compensation.

- 3 (2) A right to compensation exists if:
- 4 (a) the goods were not prohibited imports; and
  - 5 (b) the goods were not used or otherwise involved in the  
6 commission of an offence; and
  - 7 (c) the person establishes, to the satisfaction of the court, that he  
8 or she is the rightful owner of the goods.
- 9 (3) If a right to compensation exists under subsection (2), the court  
10 must order the payment by the Commonwealth to the person of an  
11 amount equal to the market value of the goods at the time of their  
12 disposal or destruction.

13 **209R Disposal of surrendered goods**

14 All goods surrendered under section 209N must be dealt with and  
15 disposed of in accordance with the directions of the CEO.

16 **Subdivision GC—Post-importation permission**

17 **209S Definitions**

- 18 (1) In this Subdivision:
- 19 *application period*, for goods that have been detained under  
20 section 209U, means the period that, in accordance with  
21 subparagraph 209X(1)(d)(i), is specified in the detention notice  
22 identifying the goods.
- 23 *detention notice* means a notice of the kind mentioned in  
24 section 209X.
- 25 *grant period*, for goods that have been detained under  
26 section 209U, means the period that, in accordance with  
27 subparagraph 209X(1)(d)(ii), is specified in the detention notice  
28 identifying the goods.
- 29 (2) If regulations made under section 50 provide that the importation  
30 of goods is prohibited unless a licence, permission, consent,  
31 approval or other document (however described) is granted or

1 given, then the licence, permission, consent, approval or other  
2 document is a ***required permission to import the goods***.

3 **209T Application of Subdivision**

4 This Subdivision applies to goods that are prohibited imports of a  
5 kind prescribed by regulations made for the purposes of this  
6 section.

7 **209U Power to detain goods**

- 8 (1) An officer of Customs may, instead of seizing goods under  
9 section 203B, detain the goods if:
- 10 (a) the goods have been imported without one or more required  
11 permissions to import the goods having been granted or  
12 given; and
  - 13 (b) any other conditions or restrictions specified in regulations  
14 made under section 50 in respect of the importation of the  
15 goods have been complied with; and
  - 16 (c) the officer has reasonable grounds to believe that:
    - 17 (i) the goods have not been concealed from Customs by the  
18 person who imported them; and
    - 19 (ii) no application for any of the required permissions to  
20 import the goods has previously been refused; and
  - 21 (d) if the goods are accompanied personal or household effects  
22 of the person—the person:
    - 23 (i) has been informed by the officer, in writing, of the  
24 available options for dealing with the goods and the  
25 consequences of exercising each of those options; and
    - 26 (ii) has indicated to Customs, in writing, that he or she has  
27 applied, or intends to apply, for each of the required  
28 permissions to import the goods that have not already  
29 been granted or given.
- 30 (2) Without limiting the meaning of ***concealed*** in  
31 subparagraph (1)(c)(i), a person is taken to have concealed goods  
32 from Customs if the person was required to give information about  
33 the goods to Customs in accordance with section 71, 71K or 71L  
34 and the person failed to do so.

1 **209V Detained goods to be secured**

2 (1) In this section:

3 *approved place*, in relation to goods detained under section 209U,  
4 means a place approved by a Collector as a place for the storage of  
5 goods of that kind.

6 (2) If an officer of Customs detains goods under section 209U, the  
7 officer must, as soon as practicable, take those goods to an  
8 approved place.

9 **209W Requirement to serve detention notice**

10 (1) If an officer of Customs detains goods under section 209U, the  
11 officer must serve, within 7 days after the day on which the goods  
12 were detained, a detention notice on:

13 (a) the owner of the goods; or

14 (b) if the owner cannot be identified after reasonable inquiry—  
15 the person in whose possession or under whose control the  
16 goods were when they were detained.

17 (2) The notice must be in writing and must be served:

18 (a) personally or by post; or

19 (b) if no person of the kind referred to in paragraph (1)(a) or (b)  
20 can be identified after reasonable inquiry—by publishing a  
21 copy of the notice in a newspaper circulating in the location  
22 in which the goods were detained.

23 (3) A detention notice may be served on a person who is outside  
24 Australia.

25 **209X Matters to be dealt with in detention notices**

26 (1) A detention notice must set out the following:

27 (a) a statement identifying the goods;

28 (b) the day on which the goods were detained;

29 (c) the ground, or each of the grounds, on which the goods were  
30 detained;

31 (d) a statement that the goods will be taken to be seized if:

32 (i) written evidence of the making of an application for  
33 each required permission to import the goods that was

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- 1 not granted or given by the time the goods were  
2 imported is not provided to Customs by the end of a  
3 specified period (the *application period*); or  
4 (ii) not all of the required permissions to import the goods  
5 are granted, or given, by the end of a specified period  
6 (the *grant period*); or  
7 (iii) during the application period or the grant period, the  
8 owner of the goods notifies Customs, in writing, that an  
9 application for a required permission to import the  
10 goods has been refused;  
11 (e) a statement that, if the goods are taken to be seized because  
12 written evidence is not provided to Customs by the end of the  
13 application period, the goods will be taken to be seized on the  
14 day after the end of the application period;  
15 (f) a statement that, if the goods are taken to be seized because  
16 not all of the required permissions to import the goods are  
17 granted, or given, by the end of the grant period, the goods  
18 will be taken to be seized on the day after the end of the grant  
19 period;  
20 (g) a statement that, if the goods are taken to be seized because  
21 during the application period or the grant period the owner of  
22 the goods notifies Customs, in writing, that an application for  
23 a required permission to import the goods has been refused,  
24 the goods will be taken to be seized on the day after Customs  
25 is so notified;  
26 (h) the ground, or each of the grounds, on which the goods will  
27 be taken to be seized;  
28 (i) a statement that, if the goods are taken to be seized and a  
29 claim for the return of the goods has not already been made,  
30 and is not made within 30 days after the day the goods are  
31 taken to be seized, the goods will be taken to be condemned  
32 as forfeited to the Crown;  
33 (j) if the notice is to be served in a foreign country—a statement  
34 that the person served, if that person has not yet made a claim  
35 for the return of the goods, may not make such a claim unless  
36 he or she has first appointed in writing an agent in Australia  
37 with authority to accept service of documents, including  
38 process in any proceedings arising out of the matter.
- 39 (2) The application period specified in a detention notice under  
40 subparagraph (1)(d)(i) must be the period that:

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- 1 (a) starts on the day that the notice is served; and  
 2 (b) ends 30 days, or such other period as is prescribed by the  
 3 regulations, after that day.
- 4 (3) The grant period specified in a detention notice under  
 5 subparagraph (1)(d)(ii) must be the period that:  
 6 (a) starts on the day written evidence of the making of an  
 7 application for a required permission to import the goods is  
 8 first provided to Customs; and  
 9 (b) ends 30 days, or such other period as is prescribed by the  
 10 regulations, after the first day on which written evidence of  
 11 the making of an application for all of the required  
 12 permissions to import the goods that were not granted, or  
 13 given, by the time the goods were imported has been  
 14 provided to Customs.

15 **209Y Effect of detaining goods**

- 16 While goods are detained under section 209U:  
 17 (a) an application for a required permission to import the goods  
 18 may be made; and  
 19 (b) a required permission to import the goods may be granted or  
 20 given;  
 21 despite the goods having already been imported.

22 **209Z Evidence not provided or permission not granted or given**

- 23 (1) This section applies if:  
 24 (a) goods have been detained under section 209U; and  
 25 (b) a detention notice identifying the goods has been served; and  
 26 (c) any of the following apply:  
 27 (i) written evidence of the making of an application for  
 28 each required permission to import the goods that was  
 29 not granted, or given, by the time the goods were  
 30 imported has not been provided to Customs by the end  
 31 of the application period for the goods;  
 32 (ii) not all of the required permissions to import the goods  
 33 have been granted, or given, by the end of the grant  
 34 period for the goods;

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- 1 (iii) during the application period, or the grant period, for the  
 2 goods, the owner of the goods has notified Customs, in  
 3 writing, that an application for a required permission to  
 4 import the goods has been refused.
- 5 (2) If the goods are at an approved place within the meaning of  
 6 section 209V, they cease to be detained under section 209U and are  
 7 taken to be seized under section 203B on:
- 8 (a) if, during the application period, the owner of the goods  
 9 notified Customs, in writing, that an application for a  
 10 required permission to import the goods was refused—the  
 11 day after Customs was so notified; or
- 12 (b) if paragraph (a) does not apply and written evidence of the  
 13 making of an application for each required permission to  
 14 import the goods that was not granted, or given, by the time  
 15 the goods were imported was not provided by the end of the  
 16 application period—the day after the end of the application  
 17 period; or
- 18 (c) if paragraphs (a) and (b) do not apply and, during the grant  
 19 period, the owner of the goods notified Customs, in writing,  
 20 that an application for a required permission to import the  
 21 goods was refused—the day after Customs was so notified;  
 22 or
- 23 (d) if paragraphs (a), (b) and (c) do not apply and not all of the  
 24 required permissions to import the goods were granted, or  
 25 given, by the end of the grant period—the day after the end  
 26 of the grant period.
- 27 (3) The detention notice is also taken to be a seizure notice that:
- 28 (a) is in accordance with section 205A; and
- 29 (b) was served:
- 30 (i) under section 205 by the responsible person; and
- 31 (ii) on the day the goods are taken to be seized.

32 **209ZA Evidence provided and permission granted or given**

- 33 (1) This section applies if:
- 34 (a) goods have been detained under section 209U; and
- 35 (b) a detention notice identifying the goods has been served; and
- 36 (c) written evidence of the making of an application for each  
 37 required permission to import the goods that was not granted,

- 1 or given, by the time the goods were imported has been  
2 provided to Customs by the end of the application period for  
3 the goods; and  
4 (d) all the required permissions to import the goods have been  
5 granted, or given, on or before the end of the grant period for  
6 the goods.
- 7 (2) An officer of Customs must return the goods to the owner.
- 8 (3) At the time the last required permission to import the goods is  
9 granted or given, the goods cease to be prohibited imports.
- 10 (4) Proceedings cannot be brought for an offence against this Act in  
11 relation to the importation of the goods.

12 **209ZB Service by post**

13 For the purposes of the application of section 29 of the *Acts*  
14 *Interpretation Act 1901* to the service by post of a detention notice  
15 under this Subdivision on a person, such a notice posted as a letter  
16 addressed to that person at the last address of that person known to  
17 the sender is taken to be properly addressed.

18 **209ZC Liability for detention of goods**

19 Neither the Commonwealth nor an officer or other person is under  
20 any liability in relation to the detention of any goods under this  
21 Subdivision for which there was reasonable cause.

22 **15 Subparagraph 243T(4)(c)(i)**

23 Before “Division 5”, insert “Subdivision A of”.

24 **16 Subparagraph 243T(4)(d)(i)**

25 Before “Division 5”, insert “Subdivision A of”.

26 **17 Paragraph 243T(4A)(b)**

27 Before “Division 5”, insert “Subdivision A of”.

28 **18 Paragraph 243U(4A)(b)**

29 Before “Division 5”, insert “Subdivision A of”.

30 **19 Before section 243X**

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1           Insert:

2           **Subdivision A—Penalties in lieu of prosecution for offences**  
3                           **relating to false statements, cargo reporting,**  
4                           **movement of goods etc.**

5           **20 Subsection 243X(1)**

6                   Omit “Division”, substitute “Subdivision”.

7           Note:    The heading to section 243X is altered by omitting “**Division**” and substituting  
8                   “**Subdivision**”.

9           **21 Subsection 243XA(1)**

10                   Omit “Division” (wherever occurring), substitute “Subdivision”.

11           **22 Subsection 243Y(1)**

12                   Omit “Division”, substitute “Subdivision”.

13           **23 Subsection 243Y(2)**

14                   After “infringement notice”, insert “served under this Subdivision”.

15           **24 Subsection 243Y(3)**

16                   After “infringement notice”, insert “served under this Subdivision”.

17           **25 Subsection 243Z(1)**

18                   After “infringement notice” (first occurring), insert “served under this  
19                   Subdivision”.

20           **26 Paragraph 243Z(2)(a)**

21                   Omit “Division”, substitute “Subdivision”.

22           **27 Subsection 243Z(3)**

23                   After “infringement notice”, insert “served under this Subdivision”.

24           **28 Subsection 243ZA(1)**

25                   After “served”, insert “under this Subdivision”.

26           **29 Subsection 243ZA(2)**

27                   After “a person”, insert “under this Subdivision”.

1 **30 Subsection 243ZA(3)**

2 After “infringement notice” (first occurring), insert “served under this  
3 Subdivision”.

4 **31 Paragraph 243ZA(3)(c)**

5 After “infringement notice”, insert “under this Subdivision”.

6 **32 Paragraph 243ZB(1)(a)**

7 After “a person”, insert “under this Subdivision”.

8 **33 Section 243ZC**

9 Omit “Division”, substitute “Subdivision”.

10 **34 Section 243ZD**

11 Omit “Division”, substitute “Subdivision”.

12 **35 Subsection 243ZE(3)**

13 Omit “Division” (wherever occurring), substitute “Subdivision”.

14 **36 At the end of Division 5 of Part XIII**

15 Add:

16 **Subdivision B—Penalties in lieu of prosecution for offences**  
17 **relating to prohibited imports, restricted areas etc.**

18 **243ZF Application of Subdivision**

19 This Subdivision applies to an offence against, or an offence for a  
20 contravention of:

- 21 (a) paragraph 233(1)(b), if the offence relates to goods that are  
22 prohibited imports of a kind prescribed by regulations made  
23 for the purposes of this section; or  
24 (b) subsection 234A(1); or  
25 (c) subsection 234AB(3).

1 **243ZG Guidelines for serving infringement notices**

2 The CEO must, by legislative instrument, make guidelines in  
 3 respect of the administration of this Subdivision to which he or she  
 4 must have regard when exercising powers under this Subdivision.

5 **243ZH When an infringement notice can be served**

6 (1) If the CEO has reasonable grounds to believe that:

- 7 (a) a person has committed an offence; and
- 8 (b) for an offence covered by paragraph 243ZF(a)—the person  
 9 concealed, from Customs, the goods to which the offence  
 10 relates;

11 then the CEO may cause an infringement notice to be served on the  
 12 person in accordance with this Subdivision.

13 (2) An infringement notice for an offence covered by paragraph  
 14 243ZF(a) does not have any effect unless it is served on the person:

- 15 (a) if the person to be served is in a section 234AA place—  
 16 before the person leaves the section 234AA place for the first  
 17 time after the alleged offence occurs; or
- 18 (b) if the person to be served is not in a section 234AA place and  
 19 the goods to which the offence relates have been seized under  
 20 section 203B—with the seizure notice served under  
 21 section 205 in respect of the goods.

22 (3) An infringement notice for an offence covered by paragraph  
 23 243ZF(b) or (c) does not have any effect unless it is served within  
 24 one year after the day on which the offence is alleged to have been  
 25 committed.

26 (4) Without limiting the meaning of *concealed* in paragraph (1)(b), a  
 27 person is taken to have concealed goods from Customs if the  
 28 person was required to give information about the goods to  
 29 Customs in accordance with section 71, 71K or 71L and the person  
 30 failed to do so.

31 **243ZI Matters to be included in an infringement notice**

32 (1) An infringement notice served under this Subdivision must:

- 33 (a) state the name of the person on whom it is to be served; and
- 34 (b) state that it is being served on behalf of the CEO; and

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- (c) state:
    - (i) the nature of the alleged offence; and
    - (ii) the time (if known) and date on which, and the place at which, the offence is alleged to have been committed; and
    - (iii) the maximum penalty that a court could impose for the alleged offence; and
  - (d) specify that a penalty of 2 penalty units is payable under the notice in respect of the alleged offence; and
  - (e) state that, if the person on whom the notice is served does not wish the matter to be dealt with by a court, the person may pay to the CEO the amount of the penalty specified in the notice:
    - (i) if the notice is served on the person in a section 234AA place and relates to an alleged offence covered by paragraph 243ZF(a)—before the person leaves the place for the first time after the notice is served; or
    - (ii) in any other case—within 28 days after the date of service of the notice; and
  - (f) state that compliance with the notice is not an admission of guilt or liability; and
  - (g) if the notice relates to an alleged offence covered by paragraph 243ZF(a)—state that, if the penalty specified in the notice is paid and the notice is not withdrawn, the goods to which the offence relates will be taken to be condemned as forfeited to the Crown such that:
    - (i) 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; and
    - (ii) a claim for the return of the goods cannot be made; and
    - (iii) if the penalty is paid after a claim for the return of the goods is made, the goods cannot be returned; and
  - (h) state that the person may make written representations to the CEO seeking the withdrawal of the notice.
- (2) An infringement notice served under this Subdivision may contain any other matters that the CEO considers necessary.

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**243ZJ Withdrawal of infringement notice**

- (1) A person on whom an infringement notice has been served under this Subdivision may make written representations to the CEO seeking the withdrawal of the notice.
- (2) The CEO may withdraw an infringement notice served on a person under this Subdivision (whether or not the person has made representations seeking the withdrawal) by causing written notice of the withdrawal to be served on the person within the period within which, or by the time by which, the penalty specified in the infringement notice is required to be paid.
- (3) The matters to which the CEO may have regard in deciding whether or not to withdraw an infringement notice served under this Subdivision include, but are not limited to, the following:
- (a) whether the person has previously been convicted of an offence for a contravention of this Act;
  - (b) the circumstances in which the offence specified in the notice is alleged to have been committed;
  - (c) whether the person has previously been served with an infringement notice under this Subdivision in respect of which the person paid the penalty specified in the notice;
  - (d) any written representations made by the person.
- (4) If:
- (a) the person pays the penalty specified in an infringement notice served under this Subdivision within the period within which, or by the time by which, the penalty is required to be paid; and
  - (b) the notice is withdrawn after the person pays the penalty;
- the CEO must refund to the person, out of money appropriated by the Parliament, an amount equal to the amount paid.

**243ZK What happens if the infringement notice penalty is paid**

- (1) This section applies if:
- (a) an infringement notice is served on a person under this Subdivision; and
  - (b) the person pays the penalty specified in the notice before the end of the period, or by the time, referred to in paragraph 243ZI(1)(e); and

- 1 (c) the infringement notice is not withdrawn.
- 2 (2) Any liability of the person for the offence specified in the notice is  
3 taken to be discharged.
- 4 (3) Further proceedings cannot be taken against the person for the  
5 offence.
- 6 (4) The person is not regarded as having been convicted of the offence.
- 7 (5) If the offence specified in the notice is an offence covered by  
8 paragraph 243ZF(a), the goods are taken to be condemned as  
9 forfeited to the Crown, such that the title to the goods immediately  
10 vests in the Commonwealth to the exclusion of all other interests in  
11 the goods, and the title cannot be called into question.
- 12 Note: A right to compensation exists in certain circumstances for goods that  
13 are disposed of or destroyed (see section 243ZN).

14 **243ZL More than one infringement notice may not be served for the**  
15 **same offence**

16 This Subdivision does not permit the service of more than one  
17 infringement notice on a person for the same offence.

18 **243ZM Infringement notice not required to be served**

- 19 This Subdivision does not:
- 20 (a) require an infringement notice to be served on a person in  
21 relation to an offence; or
- 22 (b) affect the liability of a person to be prosecuted for an offence  
23 if:
- 24 (i) an infringement notice is not served on the person in  
25 relation to the offence; or
- 26 (ii) an infringement notice served on the person in relation  
27 to the offence has been withdrawn; or
- 28 (c) affect the liability of a person to be prosecuted for an offence  
29 if the person does not comply with an infringement notice  
30 served on the person in relation to the offence; or
- 31 (d) limit the amount of the penalty that may be imposed by a  
32 court on a person convicted of an offence.

1     **243ZN Right of compensation in certain circumstances for goods**  
2             **disposed of or destroyed**

3             (1) Despite the disposal or destruction of goods taken to be condemned  
4                 as forfeited to the Crown under section 243ZK because the penalty  
5                 specified in an infringement notice was paid, a person may apply to  
6                 a court of competent jurisdiction under this section for  
7                 compensation.

8             (2) A right to compensation exists if:

9                 (a) the goods were not prohibited imports; and

10                (b) the goods were not used or otherwise involved in the  
11                 commission of an offence; and

12                (c) the person establishes, to the satisfaction of the court, that he  
13                 or she is the rightful owner of the goods.

14             (3) If a right to compensation exists under subsection (2), the court  
15                 must order the payment by the Commonwealth to the person of an  
16                 amount equal to the market value of the goods at the time of their  
17                 disposal or destruction.

18     **243ZO Disposal of forfeited goods**

19             All goods that are condemned as forfeited to the Crown under this  
20             Subdivision must be dealt with and disposed of in accordance with  
21             the directions of the CEO.

22     **37 Application**

23             (1) The amendment made by item 14 of this Schedule applies in relation to  
24             goods imported into Australia on or after the commencement of this  
25             item.

26             (2) The amendment made by item 36 of this Schedule applies in relation to  
27             offences alleged to have been committed on or after the commencement  
28             of this item.

1  
2 **Schedule 2—Goods claimed to be produce or**  
3 **manufacture of Singapore**  
4

5 ***Customs Act 1901***

6 **1 Subsection 153VE(1)**

7 Repeal the subsection, substitute:

8 *Certificate of Origin*

9 (1) Goods claimed to be the produce or manufacture of Singapore are  
10 not the produce or manufacture of Singapore, unless:

- 11 (a) at the time of entry of the goods, the importer of the goods  
12 holds a valid Certificate of Origin relevant to those goods;  
13 and  
14 (b) if, at the time of entry of the goods, the importer of the goods  
15 has previously used that Certificate of Origin in respect of  
16 goods of the same kind—at the time of entry of the goods to  
17 which the claim relates, the importer of those goods also  
18 holds a declaration relevant to those goods; and  
19 (c) if an officer requests production of a copy of any document  
20 that the importer of the goods is required under paragraph (a)  
21 or (b) to hold—a copy of that document is produced to the  
22 officer.

23 **2 Application**

24 The amendment made by this Schedule applies in relation to goods  
25 claimed, on or after the commencement of this item, to be the produce  
26 or manufacture of Singapore.  
27