

1985

The Parliament of the Commonwealth of Australia

Senate

Customs Administration Bill 1985

Explanatory Memorandum

(Circulated by Authority of the Minister for Industry, Technology  
and Commerce, Senator the Honorable John N Button)



## Outline

This Bill proposes to establish an Australian Customs Service and create the statutory office of the Comptroller-General of Customs.

The Comptroller-General of Customs -

- (i) is to be appointed by the Governor-General (Clause 5);
- (ii) shall be appointed for a period of 7 years and be eligible for re-appointment (Clause 6);
- (iii) is subject to the usual provisions of other similar statutory office holders in respect of such matters as outside employment (Clause 7), remuneration (Clause 8), leave (Clause 9), resignation (Clause 10), disclosure of financial interests (Clause 11) and suspension and removal from office (Clause 12).

The Governor-General may appoint a person to act in the office of Comptroller-General (Clause 13).

A general power of delegation by the Comptroller-General is provided by Clause 14.

The staff required for the Australian Customs Service shall be persons appointed or employed under the Public Service Act 1922 and the Comptroller-General is to have all the powers of, or exercisable by, a Secretary under the Public Service Act 1922 (Clause 15). Except in very limited circumstances the Comptroller-General and staff of the Australian Customs Service will be prohibited from disclosing confidential information (Clause 16).

## Financial Impact Statement

The measures contained in this Bill have no direct financial implications.



## Notes on Clauses

### Short Title

Clause 1 Is a formal machinery clause.

### Commencement

Clause 2 Provides for the Act to come into operation on a day to be fixed by Proclamation. This is to enable the appointment of the Comptroller-General of Customs to be made after the day of Royal Assent and before commencement.

### Interpretation

Clause 3 Defines a number of terms and expressions for the purposes of the Act and in particular defines the expression "law of customs or excise" to mean -

- (a) this Act;
- (b) any other Act of which the Comptroller-General has the general administration Note: the Acts of which it is proposed that the Comptroller-General have the general administration are listed in the Schedule to the companion of this Bill, the Customs Administration (Transitional Provisions and Consequential Amendments) Bill 1985;
- (c) if the Comptroller-General has the general administration of a particular provision or provisions only of an Act - that provision or those provisions;
- (d) if the Comptroller-General has the general administration of an Act, or of a particular provision or provisions of an Act, only in so far as that Act, or that provision or those provisions, relates or relate to a particular matter or matters - that Act, or that provision or those provisions, in so far as that Act, or that provision or those provisions, relates or relate to that matter or those matters; or
- (e) any instrument (including rules, regulations, by-laws or determinations) under this Act, under an Act to which paragraph (b) applies, under a provision to which paragraph (c) applies or under an Act or provision referred to in paragraph (d) in so far as it relates to a matter so referred to.

Australian Customs Service

Clause 4 Establishes the Australian Customs Service and creates the office of the Comptroller-General of Customs. The appointee to that office shall, under the Minister, control the Australian Customs Service. Sub-clause 4(3) provides that the Australian Customs Service is to consist of the Comptroller-General and the staff referred to in clause 15 i.e. persons appointed or employed under the Public Service Act 1922. Sub-clause 4(4) makes it clear that persons so employed or otherwise authorized by the Comptroller-General are subject to the directions of the Comptroller-General.

Appointment of Comptroller-General

Clause 5 Is a standard appointment provision requiring the Comptroller-General to be appointed by the Governor-General.

Tenure of office

Clause 6 Provides that the Comptroller-General is to be appointed for 7 years and eligible for re-appointment. Sub-clauses 6(2) and (3) are standard provisions.

Employment outside official duties

Clause 7 Is a standard provision prohibiting the Comptroller-General from engaging in outside employment, without the approval of the Minister.

Remuneration and Allowances

Clause 8 Is a standard provision relating to the remuneration and allowances to be paid to the Comptroller-General.

Leave of Absence

Clause 9 Is a standard provision relating to the granting of leave of absence to the Comptroller-General by the Minister.

Resignation

Clause 10 Is a standard provision allowing the Comptroller-General to resign from Office.

Disclosure of financial interests

Clause 11 Is a standard provision requiring the Comptroller-General to give written notice to the Minister of all direct and indirect pecuniary interests.

Suspension and removal from office of Comptroller-General

Clause 12 Is a standard provision permitting the suspension and/or removal from office of the Comptroller-General on the grounds of misbehaviour or physical or mental incapacity if each House of the Parliament resolves. Sub-clause 12(6) sets out a number of other grounds for removal from office.

Acting Comptroller-General

Clause 13 Is a standard provision permitting the Governor-General to appoint a person to act in the office of Comptroller-General.

Delegation

Clause 14 Provides a general power of delegation by the Comptroller-General for the purpose of delegating to any person all or any of the Comptroller-General's powers or functions under a law of customs or excise (as defined in clause 3), or any other law of the Commonwealth. As a consequence of this provision the companion to this Bill proposes to remove the existing delegation provisions wherever they occur in the laws of customs or excise.

Staff

Clause 15 Provides that the staff of the Australian Customs Service will be persons employed under the Public Service Act 1922. Further provides that the Comptroller-General has all the powers of, or exercisable by, a Secretary under the Public Service Act 1922. These provisions are necessary to provide maximum flexibility in the recruitment of staff for the Australian Customs Service and for the efficient management of that service.

Breaches of Confidence

Clause 16 Creates an offence to disclose any information or produce a document if such disclosure would constitute a breach of confidence. Sub-clause 16(3) sets out the limited circumstances that are exempted from the offence.

Annual Report

Clause 17 Is a standard provision requiring the Comptroller-General to furnish an annual report to the Minister. The report is to be in relation to the operations of the Australian Customs Service during a year ending on 30 June. The report is subject to the normal tabling requirement.

Regulations

Clause 18 Is a standard regulation making power.