

1986

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

CUSTOMS ADMINISTRATION (TRANSITIONAL PROVISIONS  
AND CONSEQUENTIAL AMENDMENTS) BILL 1986

EXPLANATORY MEMORANDUM

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



CUSTOMS ADMINISTRATION (TRANSITIONAL PROVISIONS  
AND CONSEQUENTIAL AMENDMENTS) BILL 1986

OUTLINE

This Bill proposes to transfer a range of Ministerial powers in legislation administered by the Comptroller-General of Customs to the Office of the Comptroller-General of Customs. The Bill effectively completes the transfer of those powers involved in the day to day administration of the Australian Customs Service which the earlier Customs Administration (Transitional Provisions and Consequential Amendments) Act 1985 commenced after the creation of an independent Australian Customs Service on 10 June 1985 by the Customs Administration Act 1985.

The powers now proposed for transfer from the Minister for Industry, Technology and Commerce to the Comptroller-General are listed in the Schedule to the Bill (Clause 3) under the various Acts in which those powers are contained (one power (under section 25 of the Customs Tariff Act 1982) previously transferred to the Comptroller-General is proposed to be re-invested in the Minister following a reappraisal of the power as non-administrative). The Acts specified in the Schedule comprise the bulk of legislation administered by the Customs through the Comptroller-General.

Clause 4 of the Bill is a transitional provision which, amongst other things, preserves the effect of Ministerial action taken under powers proposed for transfer to the Comptroller-General by this Bill.

Financial Impact Statement

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

NOTES ON CLAUSESShort Title

Clause 1 is a formal machinery clause

Commencement

Clause 2 sub-clause (1) provides for the Act to come into operation on the day on which it receives the Royal Assent, with the exception of:

- the amendments made to
  - . sub-section 10(5). Bounty (Electric Motors) Act 1984;
  - . paragraph 7(4)(a). Bounty (High Alloy Steel Products) Act 1983;
  - . paragraph 7(4)(a). Bounty (Injection-moulding Equipment) Act 1979; and
  - . sub-section 6(5). Bounty (Two-Stroke Engines) Act 1984.

(all of which relate to determinations concerning the effective date of registration of premises) which shall be deemed to have come into operation on 10 June 1985 (the day of operation of the Customs Administration (Transitional Provisions and Consequential Amendments) Act 1985);

- the amendments made to sub-sections 267(2) and (3) of the Customs Act 1901 (relating to undertakings given in relation to tender-quota schemes) which shall be also deemed to have come into operation on 10 June 1985, (Sub-clause 2)

Amendments

Clause 3 is a technical drafting clause, introducing the Schedule to the Act, and providing that the Ministerial powers set out in the 28 Acts listed in the Schedule are transferred to the Comptroller-General as set out in the Schedule.

Transitional

Clause 4 is a transitional provision, which preserves the effect of Ministerial action taken prior to the commencement of this Bill under powers which are proposed for transfer by the Bill. In particular,

- sub-clause 1 provides that where Ministerial action has been taken by way of instrument under a Ministerial power conferred by an Act, and that power is transferred to the Comptroller-General, the instrument continues in force as if it had been made, given, granted etc by the Comptroller-General under that transferred power;
- sub-clause 2 covers Ministerial action other than by way of instrument, and provides, similar to sub-clause (1), that the Ministerial action is deemed to have been duly done etc by the Comptroller-General under the transferred power;
- sub-clauses 3 and 4 effect transitional arrangements relating to action taken pursuant to Section 25 of the Customs Tariff Act 1982, dealing with the various powers to determine and publish in the Gazette goods which are to be substitutes for other customable goods. Prior to 10 June 1985 (the commencement date for the first transfer of powers Act - ie, Customs Administration (Transitional Provisions and Consequential Amendments) Act 1985), the power rested with the Minister. It was then transferred to the Comptroller-General in the context of the first transfer of all delegated powers, and is now proposed to be re-invested in the Minister following a reappraisal of the power as non-administrative. Sub-clauses (3) and (4) preserve action taken by the Minister prior to 10 June 1985, and by the Comptroller-General from that date, by deeming such action to have been taken by the Minister under the re-transferred power in this Bill.

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1. The first part of the document discusses the general situation of the country and the progress of the war. It mentions the importance of maintaining the morale of the people and the need for a united front.

2. The second part of the document deals with the economic situation and the measures being taken to improve it. It emphasizes the need for a balanced budget and the reduction of government spending.

3. The third part of the document focuses on the social and cultural aspects of the country. It discusses the role of education and the importance of promoting national unity and progress.

4. The fourth part of the document addresses the international situation and the country's foreign policy. It states the country's commitment to peace and cooperation with other nations.

5. The fifth part of the document concludes with a call to action for the people and the government. It urges everyone to work together to build a better future for the country.

6. The sixth part of the document provides a summary of the main points discussed in the previous sections. It reiterates the country's goals and the steps being taken to achieve them.

7. The final part of the document is a closing statement, expressing confidence in the country's future and a message of hope to the people.

SCHEDULE

AMENDMENTS OF ACTS

BOUNTY (BED SHEETING) ACT 1977

Sub-Section 16(4) -

Transfers to the Comptroller-General the Minister's power to determine whether bounty shall be paid if documents are not produced as required.

BOUNTY (BERRY FRUITS) ACT 1982

Sub-section 18(4) -

Transfers to the Comptroller-General the Minister's power to determine whether bounty shall be paid if documents are not produced as required.

BOUNTY (BOOKS) ACT 1969

Sub-section 3(1) -

Transfers to the Comptroller-General the Minister's power to declare recognized educational institutions for purposes of the Act.

Section 3A -

Transfers to the Comptroller-General the Minister's powers under sub-sections (2) and (3) to declare that bounty is not payable in respect of certain books.

Section 4 -

Transfers to the Comptroller-General the Minister's powers under sub-sections (2), (2A), (3) and (4) to determine the manufacturing cost component of a book.

Section 4AA -

Transfers to the Comptroller-General the Minister's power under sub-sections (2), (3) and (4) to determine the publisher's paper costs in relation to a book.

Section 8 -

Transfers to the Comptroller-General the Minister's powers under paragraph (4)(b) and sub-section (5) to determine that bounty is not payable in respect of books which would be prohibited imports if imported into Australia.

Sub-section 14(4) -

Transfers to the Comptroller-General the Minister's power to determine whether bounty shall be paid if documents are not produced as required.

## Section 20A -

Amendments to Paragraphs (a), (aa), (b), (ba), (c), (ca), (cb), relating to review by the Administrative Appeals Tribunal are consequential upon the transfer of the Minister's powers to the Comptroller-General in sections 3A, 4 and 4AA above.

BOUNTY (COMPUTERS) ACT 1984

## Sub-section 25(6) -

Transfers to the Comptroller-General the Minister's power to determine whether bounty shall be paid if documents are not produced as required.

BOUNTY (ELECTRIC MOTORS) ACT 1984

## Sub-section 10(5) -

Transfers to the Comptroller-General the Minister's power to determine dates of registration.

## Sub-section 27(6) -

Transfers to the Comptroller-General the Minister's power to determine whether bounty shall be paid if documents are not produced as required.

BOUNTY (HIGH ALLOY STEEL PRODUCTS) ACT 1983

## Paragraph 7(4)(a) -

Transfers to the Comptroller-General the Minister's power to determine dates of registration.

## Sub-section 18(6) -

Transfers to the Comptroller-General the Minister's power to determine whether bounty shall be paid if documents are not produced as required.

BOUNTY (INJECTION-MOULDING EQUIPMENT) ACT 1979

## Paragraph 7(4)(a) -

Transfers to the Comptroller-General the Minister's power to determine dates of registration.

## Sub-Section 17(4) -

Transfers to the Comptroller-General the Minister's power to determine whether bounty shall be paid if documents are not produced as required.



BOUNTY (PAPER) ACT 1979

## Sub-section 17(4) -

Transfers to the Comptroller-General the Minister's power to determine whether bounty shall be paid if documents are not produced as required.

BOUNTY (PENICILLIN) ACT 1980

## Sub-section 19(4) -

Transfers to the Comptroller-General the Minister's power to determine whether bounty shall be paid if documents are not produced as required.

BOUNTY (PRINTED FABRICS) ACT 1981

## Sub-section 16(4) -

Transfers to the Comptroller-General the Minister's power to determine whether bounty shall be paid if documents are not produced as required.

BOUNTY (SHIPS) ACT 1980

## Section 11 -

Transfers to the Comptroller-General the Minister's power to require what accounts are to be kept by bounty claimants.

## Section 12-

Transfers to the Comptroller-General the Minister's power to require that security be given by bounty claimants.

## Section 13 -

Transfers to the Comptroller-General the Minister's power to appoint authorized persons.

## Sub-section 15(4) -

Transfers to the Comptroller-General the Minister's power to determine whether bounty shall be paid if documents are not produced as required.

## Sub-section 20(1) -

This amendment, relating to review by the Administrative Appeals Tribunal, is consequential upon the transfer of the Minister's powers to the Comptroller-General in Section 12 above.

Sub-section 20A(1) -

Transfers to the Comptroller-General the Minister's obligation to provide a statement with the notice of decision, advising that the decision is appealable to the Tribunal.

BOUNTY (STEEL MILL PRODUCTS) ACT 1983

Sub-section 19(6) -

Transfers to the Comptroller-General the Minister's power to determine whether bounty shall be paid if documents are not produced as required.

BOUNTY (TEXTILE YARNS ) ACT 1981

Sub-section 16(4) -

Transfers to the Comptroller-General the Minister's power to determine whether bounty shall be paid if documents are not produced as required.

BOUNTY (TWO STROKE ENGINES) ACT 1984

Sub-section 6(5) -

Transfers to the Comptroller-General the Minister's power to determine dates for registration of premises.

Sub-section 16(6) -

Transfers to the Comptroller-General the Minister's power to determine whether bounty shall be paid if documents are not produced as required.

COAL EXCISE ACT 1949

Sub-section 15(2) -

Transfers to the Comptroller-General the Minister's power to cancel a licence, by Gazette notice, if fresh security is not given.

Section 17 -

Transfers to the Comptroller-General the Minister's power to cancel a licence, by Gazette notice, if the licensee is convicted of any offence against this Act.

Paragraph 27A(c) -

This amendment, relating to review by the Administrative Appeals Tribunal is consequential upon the transfer of the Minister's power to the Comptroller-General in Section 17 above.

COMMERCE (TRADE DESCRIPTIONS) ACT 1905

## Sub-section 7(2) -

Transfers to the Comptroller-General the Minister's power to direct the seizure of goods.

## Sub-section 7(3) -

Transfers to the Comptroller-General the Minister's power to permit delivery of goods liable to seizure.

## Section 10 -

Transfers to the Comptroller-General the Minister's power to permit an importer to correct a false trade description.

## Sub-Section 15(1) and (2) -

These amendments, relating to review by the Administrative Appeals Tribunal, are consequential upon the transfer of the Minister's powers to the Comptroller-General in sub-section 7(3) and Section 10 above.

CUSTOMS ACT 1901

## Sub-section 13(1) -

Transfers to the Comptroller-General the Minister's power to determine the design of the Customs Seal.

## Sub-section 13(3) -

Transfers to the Comptroller-General the Minister's power to direct the place and custody of the Customs Seal.

## Sub-section 13(4) -

Transfers to the Comptroller-General the Minister's power to direct the use of the Customs Seal.

## Sub-section 15(1) -

Transfers to the Comptroller-General the Minister's power to appoint, by Gazette notice, ports and airports.

## Section 19 -

Transfers to the Comptroller-General the Minister's power to declare in writing whether accommodation on wharfs and at airports is necessary.

## Sub-section 30A(4) -

Transfers to the Comptroller-General the Minister's power to receive requests for exemptions pursuant to the Torres Strait Treaty.

Sub-section 30A(5) -

Transfers to the Comptroller-General the Minister's power to make exemptions to the provisions of the Torres Strait Treaty, in accordance with specified requirements.

Paragraphs 83(2)(e) -

Transfers to the Comptroller-General the Minister's power to determine the fee for officer's services when warehouse licences have not been renewed.

Paragraph 83(2)(g) -

Transfers to the Comptroller-General the Minister's power to determine the fee for the removal of goods from a warehouse.

Paragraph 86(7)(f) -

Transfers to the Comptroller-General the Minister's power to determine the fee payable as a result of the suspension of a warehouse licence.

Paragraph 108(2)(e) -

Transfers to the Comptroller-General the Minister's power to determine the fee for officer's services when a depot licence is not renewed.

Paragraph 108(2)(g) -

Transfers to the Comptroller-General the Minister's power to determine the fee for the cost of removal of goods from a depot.

Paragraphs 111(9)(e) and (g) -

Transfers to the Comptroller-General the Minister's powers to determine the fees for officer's services as a result of the suspension of a depot licence.

Sub-sections 119(2) and (3) -

Transfers to the Comptroller-General the Minister's power to grant a certificate of clearance for a ship or aircraft to depart from Australia.

Sub-section 128B(1) -

Transfers to the Comptroller-General the Minister's power to declare, by Gazette notice, goods to be ship's and aircraft's stores.

Sub-sections 132B(1), (2), (3), (4) and (5)

Transfers to the Comptroller-General the Minister's powers to declare, by Gazette notice, quota periods and make quota orders in accordance with the requirements specified in this section.

Sub-sections 132C(1), (2) and (5) -

Transfers to the Comptroller-General the Minister's powers to revoke or vary quota orders.

Sections 132D -

Transfers to the Comptroller-General the Minister's obligation to serve a copy of a quota order on the person affected.

Paragraphs 151(2)(e), (3)(c), (4)(c), and (5)(c) and sub-sections 151(10), (11), (12) and (13) -

Transfers to the Comptroller-General the Minister's power to determine, by Gazette notice, if goods are the produce or manufacture of a country in accordance with section 151, and to make decisions relevant to those determinations.

Sub-sections 161B(2) and (4) -

Transfers to the Comptroller-General the Minister's power to specify, by Gazette notice, a rate of exchange in relation to a particular currency.

Sub-section 164A(3) -

Transfers to the Comptroller-General the Minister's obligation to publish, by Gazette notice, the new rate of rebate in respect of diesel fuel used for certain purposes.

Section 164B -

Transfers to the Comptroller-General the Minister's power to direct the amount of refunds of export duty.

Sub-section 181(2) -

Transfers to the Comptroller-General the Minister's power to declare, by Gazette notice, that a place is a place to which this section relating to Customs Agents Licenses, applies.

Sub-section 183CC(5) -

Transfers to the Comptroller-General the Minister's power to approve a course of study to become a customs agent.

Sub-section 183CJ(1) -

Transfers to the Comptroller-General the Minister's power to disallow renewal of customs agents' licences.

Paragraphs 183CQ(4)(b) and (c) and sections 183CQ(5) and (7) -

Transfers to the Comptroller-General various investigatory powers of the Minister relating to an agent's licence.

Sub-section 183CR(3) -

Transfers to the Comptroller-General the Minister's power to act in relation to the suspension of an agent's licence.

Section 183CS -

Transfers to the Comptroller-General the Minister's powers to suspend, revoke or refuse the renewal of agents' licences.

Paragraphs 183D(2)(c) and (d)

Transfers to the Comptroller-General the Minister's power to request the National Customs Agents Licensing Advisory Committee to advise on standards for customs agents.

Paragraph 183DA(2)(b) and sub-sections 183DA(3), (4) and (5) -

Transfers to the Comptroller-General the Minister's powers in relation to the constitution of the National Customs Agents Licensing Advisory Committee.

Sub-sections 183DC(1) and (3) -

Transfers to the Comptroller-General the Minister's power to appoint an acting Chairperson of the National Customs Agents Licensing Advisory Committee and determine the fees, allowances and expenses for such person.

Section 183DD -

Transfers to the Comptroller-General the Minister's power to appoint a person to be a deputy member of the National Customs Agents Licensing Advisory Committee, and to determine such person's fees, allowances and expenses.

Sub-section 183S(1) -

Amends this sub-section to provide that in an inquiry before the National Customs Agents Licensing Advisory Committee, the Comptroller-General is entitled to representation by counsel.

Section 253 -

This section, dealing with the protection of witnesses, is amended to include the Comptroller.

## Sub-section 264(1) -

Transfers to the Comptroller-General the Minister's power to direct all penalties and forfeitures recovered under any Customs Act to be applied for such purposes and in such proportions as the Comptroller directs.

## Section 267 -

The amendments to this section correct a technical drafting error in the first transfer of powers exercise in the Customs Administration (Transitional Provisions and Consequential Amendments) Act 1985 - No. 39 of 1985. As none of the Minister's powers were transferred to the Comptroller-General under Section 266, several corrections to this section were needed following the transfer to the Comptroller of the Minister's powers in this section.

## Sub-section 269P(2A), (2B) and (11) -

Transfers to the Comptroller-General the Minister's power to revoke concession orders.

## Paragraphs 273GA(c), (h) and (j) -

These amendments, relating to review by the Administrative Appeals Tribunal, are consequential upon the transfer of the Minister's powers to the Comptroller-General in Section 119, sub-section 161B(4), and section 164B.

## Sub-section 273H(1)

This amendment, relating to review by the Administrative Appeals Tribunal is consequential upon the transfer of the Minister's power to the Comptroller-General in sub-section 11(3) of the Customs Tariff Act 1982.

## Section 274 -

The reference to Minister has been deleted from this section, which relates to the power to authorize officers to report on commissioned ships and aircraft.

CUSTOMS TARIFF ACT 1982

## Sub-section 11(3) -

Transfers to the Comptroller-General the Minister's power to determine the value of parts, components or ingredients of goods.

## Sub-section 26A(5) -

Transfers to the Comptroller-General the Minister's power to publish, by Gazette notice, indexation of rates of duty in accordance with this section.

Schedule 3 - paragraph 24.01.2 -

Transfers to the Comptroller-General the Minister's power to issue certificates for the purposes of this sub-item.

Schedule 4 - Item 7 -

Transfers to the Comptroller-General the Minister's power to approve goods for the purposes of this item.

Schedule 4 - Item 54 -

Transfers to the Comptroller-General the Minister's powers to approve goods for the purposes of this item.

#### CUSTOMS TARIFF (COAL EXPORT DUTY) ACT 1975

Sub-section 4(2) -

Transfers to the Comptroller-General the Minister's power to approve the test for high quality coking coal.

#### DISTILLATION ACT 1901

Sub-section 6(1) - (definition of "Gazette Notice")

Substitutes Comptroller-General for Minister for the purposes of this definition.

Sub-section 24(1) -

Transfers to the Comptroller-General the Minister's power to cancel, by Gazette notice, licences if the licensee is convicted of any offence against this Act.

Paragraph 82B(1)(b) -

This amendment, relating to a review by the Administrative Appeals Tribunal, is consequential upon the transfer of the Minister's powers to the Comptroller-General in section 24 above.

#### EXCISE ACT 1901

Sub-section 4(1) - (definition of "Gazette Notice")

Substitutes Comptroller-General for Minister for the purposes of this definition.

Section 43 and 44 -

Transfers to the Comptroller-General the Minister's power to cancel, by Gazette notice, licences if Licensees are convicted of any offence against this Act.



Sub-sections 59A(1), (2), (3), (4) and (5) -

Transfers to the Comptroller-General the Minister's powers to declare quota periods and quota orders in accordance with the requirements specified in this section.

Sub-sections 59B(1), (2) and (5) -

Transfers to the Comptroller-General the Minister's powers to revoke or vary quota orders.

Section 59C -

Transfers to the Comptroller-General the Minister's obligation to serve a copy of a quota order on the person affected.

Section 142 -

This section, dealing with the protection of witnesses, is amended to include the Comptroller-General.

Section 153 -

Transfers to the Comptroller-General the Minister's power to direct all penalties and forfeitures recovered under any Excise Act to be applied for such purposes and in such proportions as the Comptroller directs.

Section 154 -

Amends the section to provide that the provisions relating to disputes as to duty do not apply where the Comptroller-General, as opposed to the Minister, is of the opinion that any evasion of this Act has been committed or attempted.

Section 160B(1) -

Transfers to the Comptroller-General the Minister's power to publish by Gazette notice, Tariff Proposals when the House of Representatives is not sitting.

Paragraphs 162C(1)(c) and (d) -

This amendment, relating to review by the Administrative Appeals Tribunal is consequential upon the transfer of the Minister's powers to the Comptroller-General under Sections 43, 59A and 59B above.

EXCISE TARIFF ACT 1921

Sub-section 6(1), paragraphs 6(2)(a) and (b) and sub-section 6(3).

Transfers to the Comptroller-General the Minister's powers in relation to the limitation of exemption from duty on goods as specified in this section.

Paragraph 6A(6)(a) and sub-section 6A(8)

Transfers to the Comptroller-General the Minister's obligation to publish in the Gazette indexation of rates of duty in accordance with this section.

NARCOTICS DRUGS ACT 1967

Sub-section 22(3)

Transfers to the Comptroller-General the Minister's power to direct disposal of seized drugs.

Sub-section 24(2)

Transfers to the Comptroller-General the Minister's power to appoint authorized inspectors.

NITROGENOUS FERTILIZERS SUBSIDY ACT 1966

Sub-section 20(4) -

Transfers to the Comptroller-General the Minister's power to determine whether subsidy shall be paid if documents are not produced as required.

PHOSPHATE FERTILIZERS SUBSIDY ACT 1963

Sub-section 17(4) -

Transfers to the Comptroller-General the Minister's power to determine whether subsidy shall be paid if documents are not produced as required.

PSYCHOTROPIC SUBSTANCES ACT 1976

Sub-section 9(3) -

Transfers to the Comptroller-General the Minister's power to direct the disposal of seized psychotropic substances.

SPIRITS ACT 1906

Section 13 -

Transfers to the Comptroller-General the Minister's powers in relation to inferior spirits.

STATES GRANTS (PETROLEUM PRODUCTS) ACT 1965

Sub-sections 5(2), (3), paragraphs 5(3A)(a) and (b) -

Transfers to the Comptroller-General the Minister's powers in relation to the provisions of schemes.

Section 7 -

Transfers to the Comptroller-General the Minister's obligation to publish the Schedule of Schemes in the Gazette.









