

Bills Digest
No. 98 2000–01

Customs Legislation Amendment and Repeal
(International Trade Modernisation) Bill 2000

ISSN 1328-8091

© Copyright Commonwealth of Australia 2001

Except to the extent of the uses permitted under the *Copyright Act 1968*, no part of this publication may be reproduced or transmitted in any form or by any means including information storage and retrieval systems, without the prior written consent of the Department of the Parliamentary Library, other than by Senators and Members of the Australian Parliament in the course of their official duties.

This paper has been prepared for general distribution to Senators and Members of the Australian Parliament. While great care is taken to ensure that the paper is accurate and balanced, the paper is written using information publicly available at the time of production. The views expressed are those of the author and should not be attributed to the Information and Research Services (IRS). Advice on legislation or legal policy issues contained in this paper is provided for use in parliamentary debate and for related parliamentary purposes. This paper is not professional legal opinion. Readers are reminded that the paper is not an official parliamentary or Australian government document. IRS staff are available to discuss the paper's contents with Senators and Members and their staff but not with members of the public.

Inquiries

Members, Senators and Parliamentary staff can obtain further information from the Information and Research Services on (02) 6277 2646

Information and Research Services publications are available on the ParlInfo database.
On the Internet the Department of the Parliamentary Library can be found at:
<http://www.aph.gov.au/library/>

Published by the Department of the Parliamentary Library, 2001

I N F O R M A T I O N A N D R E S E A R C H S E R V I C E S

Bills Digest
No. 98 2000–01

Customs Legislation Amendment and Repeal (International
Trade Modernisation) Bill 2000

Ian Ireland
Law and Bills Digest Group
5 March 2001

Contents

Purpose	1
Background	2
Main Provisions	2
Examination of goods for export that are not subject to Customs control	2
Powers to monitor and audit	4
Keeping commercial documents and records verifying communications to the ACS.	6
Recovery of Short Paid Duty.	7
Maintenance of electronic communications systems by the ACS.	8
Self assessed clearance declaration	9
Information contracts	10
Alignment of export entry thresholds.	11
Export declarations.	11
Penalties.	12
Repeal of <i>Import Processing Charges Act 1997</i>	13
Endnotes.	13

Customs Legislation Amendment and Repeal (International Trade Modernisation) Bill 2000

Date Introduced: 6 December 2000

House: House of Representatives

Portfolio: Justice and Customs

Commencement: The amendments outlined in this Digest commence on a day to be fixed by Proclamation. However, if those items do not commence within a period of 2 years from the day on which the Bill receives Royal Assent they will be taken to have commenced on the day after the end of that period.

Purpose

The Customs Legislation Amendment and Repeal (International Trade Modernisation) Bill 2000, the Import Processing Charges Bill 2000, and the Customs Depot Licensing Charges Amendment Bill 2000 form a package of three Bills the principal objective of which is to modernise the way in which the Australian Customs Service manages the movement of cargo in and out of Australia. The major amendments proposed by this Bill:

- extend the time for recovery of short paid duty from 12 months to four years
- introduce new compliance measures in relation to the reporting and accounting of imported cargo
- provide Australian Customs Service officers with additional powers to enter premises where there are reasonable grounds to believe export goods are located
- repeal the existing administrative penalty and remission system provisions and replace them with a system where the Australian Customs Service can issue an infringement notice instead of pursuing a prosecution for strict liability offences
- introduce a strict liability penalty regime where: errors are made in communications with the Australian Customs Service; the communications to the Australian Customs Service are received late or not at all; or goods under Customs control are moved contrary to the direction from, or without the permission of, the Australian Customs Service, and
- repeal the *Import Processing Charges Act 1997*.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Background

As there is no one core rationale for the amendments proposed by the Bill, a brief discussion of the rationale for each major amendment is outlined in the 'Main Provisions' section of this Digest.

While the majority of amendments proposed by the Bill are administrative in nature, a number of amendments can be said to impact on individuals' right to privacy. For the most part these provisions relate to the entry and search powers of the Australian Customs Service. For a recent discussion of entry and search powers in Commonwealth legislation, the reader is referred to the Senate Standing Committee for the Scrutiny of Bill in its April 2000 report titled *Entry and Search Provisions in Commonwealth Legislation*.

Main Provisions

Examination of goods for export that are not subject to Customs control

A **new Division 3A (proposed sections 122F-122R)**, dealing with the examination of goods for export that are not subject to Australian Customs Service (ACS) control, will be inserted in the *Customs Act 1901* (the Principal Act) by **item 5 of Schedule 1** of the Bill. The proposed sections confer powers on authorised officers to enter premises, other than prescribed premises (ie. where goods that are made or prepared in, or brought to, a prescribed place for export), and to examine goods that are reasonably believed to be intended for export. The object of the proposed division is to allow the ACS to assess whether goods meet the requirement of the Principal Act relating to exports before the goods become subject to the control of the ACS.

Certain pre-conditions will have to be met before the proposed powers can be exercised, including:

- the authorised officer must believe on reasonable grounds that there are, or have been, in or on particular premises goods that are intended to be exported
- the occupier of the premises must have consented in writing to the entry and the exercise of entry and search powers in or on the premises
- before obtaining the consent, the authorised officer must have told the occupier that they can refuse consent, and
- before entering the premises or exercising any entry and search powers, the authorised officer will have to produce their identity card to the occupier.

Additional to the pre-conditions outlined above, the proposed search powers are circumscribed by a condition that an authorised officer who has entered premises must

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

leave the premises where the occupier withdraws consent. However, a withdrawal of a consent will have to be in writing.

Specifically, the proposed powers which an authorised officer will have relating to goods for export that are not yet subject to Customs control include:

- the power to search premises for the export goods and documents relating to them
- whilst in or on the premises, the power to inspect, examine, count, measure, weigh, gauge, test or analyse and take samples of, the export goods
- remove from the premises any samples taken, and arrange for tests or analyses to be conducted on them elsewhere
- examine and take extracts from, or make copies of, documents that are in or on the premises and relate to the export goods
- request the occupier of the premises to answer questions about the export goods; and produce documents that are in or on the premises relating to those goods, and
- bring into or onto the premises equipment and materials for exercising the above powers.

Proposed Division 3A contains a standard compensation provision for the situation where a person's property is damaged as a consequence of an exercise of the proposed search powers. A person will be entitled to a reasonable amount, payable by Customs, for the damage. The quantum payable will be an amount agreed to between the parties. Where there is a failure to agree on a quantum, the person may institute proceedings in the Federal Court for such an amount as the Court determines.

Note:

(a) Rationale – The rationale given by the Government in its Explanatory Memorandum to the Bill for the proposed amendments is that it:

... includes amendments to improve Customs capacity to ensure requirements in relation to exported goods are complied with. The purpose of the amendments is to enable Customs to effectively perform its role of preventing the export of prohibited exports and monitoring compliance with the GST law in relation to the GST-free status of supplies of goods for export.¹

The difficulty is that not all goods for export are subject to Customs control, while others that are subject to Customs control cannot be examined at places where they come under that control (such as a wharf or airport or licensed Customs depot) either because of the limited time that they are located there, or the way in which they have been packaged for export. It is therefore proposed to extend Customs control to **all** goods for export and to extend the powers of examination beyond the current prescribed places to overcome logistical and time sensitivity problems.²

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

(b) Comment - Based on the above rationale and the effect of the proposed amendments, it can be said that the outcome sought by the Government from the amendments is a more effective ACS. While the proposed amendments can be said to offer the potential for a more effective ACS, the scope of the proposed amendments raises a number of questions which the Government's Explanatory Memorandum does not appear to answer, including:

- Has the Privacy Commissioner been consulted regarding the amendments?
- Why does a withdrawal of a consent under proposed section 122J have to be in writing and not be a verbal withdrawal?
- Where samples of goods are taken under proposed section 122L, will the owner of those goods be compensated for the removal of the sample?
- The compensation provision proposed by section 122Q provides for compensation for damage to property. Should a provision be inserted for compensation for mental anguish where export goods are not found on the premises?
- Should use of the proposed powers only be exercisable with a warrant?

Powers to monitor and audit

A new **Subdivision J (proposed sections 214AA-214AJ)**, dealing with the powers of officers to monitor compliance with the *Customs Act 1901* and related laws, is inserted in the *Customs Act 1901* by **item 13** of **Schedule 1**. For the most part, the proposed powers replace existing provisions and, as the Government states in its Explanatory Memorandum to the Bill, provides a

modernised legislative framework in which to monitor compliance with the Customs Act and Customs related laws.³

Significant monitoring powers accorded by the proposed sections include:

- The power to secure a thing that is found during a search of premises which a monitoring officer believes on reasonable grounds provides evidence of an offence against a Customs related law and may be lost, destroyed or tampered with. This power can only be exercised until a warrant is obtained to seize the thing or 72 hours (three days) passes after securing the item, whichever first occurs. (**Proposed paragraph 214AB(1)(h)**).
- The power to operate equipment at premises to see whether the equipment, or a disk, tape or other storage device that is at the premises contains information that is relevant to assessing whether a person is:

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

- complying with a Customs related law
 - whether a person's record-keeping, accounting, computing or other operating systems of any kind accurately record and generate information to enable compliance with a Customs related law, or
 - the correctness of information communicated by a person to the ACS. **(Proposed subsection 214AB (2)).**
- The power to obtain such assistance and use such force against things as is necessary and reasonable in the circumstances when entering premises and exercising monitoring powers. **(Proposed subsection 214AC (4)).**

Note:

(a) Rationale – The rationale given by the Government in its Explanatory Memorandum to the Bill for the proposed amendments can be said to be to:

Outline the monitoring powers

Outline when the monitoring powers may be exercised and by whom they may be exercised

Provide a modernised legislative framework in which to monitor compliance with the Customs Act and Customs related laws

Ensure that the ability to monitor and audit is in accordance with Government policy.⁴

(b) Comment - While the effect of the proposed amendments can be said to have the potential to give effect to the Government's rationale, the proposed amendments raise a number of questions which the Government's Explanatory Memorandum does not appear to answer, including:

- In respect to **proposed subsection section 214AC(4)**, what is meant by 'use such force against things'? It may be noted that the Government's Explanatory Memorandum to the Bill states that '[I]n entering premises and exercising monitoring powers a monitoring officer or person assisting a monitoring officer may use force only against things as is necessary and reasonable in the circumstancesIt might, for example, be necessary to open a filing cabinet. There is no power to use force against persons in any circumstances'⁵. It may also be noted that the terms 'thing' or 'necessary' are not defined.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Keeping commercial documents and records verifying communications to the ACS

New **subsections 240(4), (5) and (6)**, dealing with the keeping of commercial documents, are substituted in the *Customs Act 1901* by **item 20 of Schedule 1**. **Proposed subsection 240(4)** provides that a person who is required to keep a commercial document relating to particular goods may keep the documents at any place, including a place outside Australia, and subject to **proposed subsection 240(5)**, may keep the documents in any form or store them in any way.

Proposed subsection 240(5) sets out certain conditions to the way commercial documents are to be kept, including:

- in such a manner as will enable a Collector readily to ascertain whether the goods have been properly described for the purpose of importation or exportation, or properly valued or rated for duty; and
- if the document is in a language other than English, keep the document in a way that a translation into English can be readily made, or
- if the document is kept in an electronic form, keep the record in such a way that a document setting out in English the information recorded or stored can be readily produced.

It will also be an offence, punishable by a maximum fine of \$3300 to not comply with the above conditions.

Proposed subsection 240(6) provides that an authorised officer may, by written notice to the person who is required to keep a commercial document, require him or her to inform the officer within a reasonable period, and in a way specified in the notice, of the whereabouts of the document.

Note:

(a) Rationale – The rationale given by the Government in its Explanatory Memorandum to the Bill for the proposed amendments can be said to be to:

... improve compliance with the commercial obligations under the Customs Act in a self assessment environment; improve the accuracy of information that is required to be communicated to Customs in relation to imported and exported goods; and provide for clients who have a proven history of compliance with Customs commercial obligations to report information in a different way.⁶

The Government also states, specifically as to the proposed amendments, that:

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

The amendments at item 20 of Schedule 1 to the Bill relate to the manner in which documents are to be kept and modernise the current requirements to take account of advances in technology and the globalisation of business.⁷

(b) Comment - In the context of the whole of the proposed commercial compliance measures, the effect of the proposed amendments can be said to have the potential to give effect to the Government's rationale. However, the proposed amendments raise a number of questions which the Government's Explanatory Memorandum does not appear to answer, including:

In respect to **proposed subsection 240(4)**, how will the ACS enforce the law in relation to documents held overseas?

New sections 240AA-240C, dealing with the production of commercial documents to an authorised officer, are inserted in the *Customs Act 1901* by **item 21 of Schedule 1** of the Bill. A notable feature of the proposed section is a requirement that where a notice is given to produce a commercial document, whether the document is held in Australia or overseas, the period for compliance is 14 days.

Note:

(a) Rationale -

The Government in its Explanatory Memorandum to the Bill states in relation to the 14 day notice period that: 'The 14 days for production will allow people who keep records outside Australia sufficient time to obtain documents for production in Australian in accordance with the request. Note that a failure to produce will be a strict liability offence under new section 243SB.'⁸

(b) Comment -

In the context of the whole of the proposed commercial compliance measures, the effect of the proposed amendments can be said to have the potential to give effect to the Government's rationale. However, the proposed amendments raise a number of questions which the Government's Explanatory Memorandum does not appear to answer, including:

- Whether the ACS has conducted a survey or study to determine whether the 14 day compliance limit/period is fair and equitable, particularly in relation to commercial documents held overseas?

Recovery of Short Paid Duty

Currently, section 165 of the *Customs Act 1901* provides for the recovery of duty mistakenly refunded or short levied on demand by the Chief Executive Officer (CEO) of the ACS within 12 months of the date of the refund or short levy.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

The Government in its Explanatory Memorandum to the Bill submits that the 12 month time limit means that the ACS cannot recover any duty when the short payment is detected more than 12 months after the short payment and the proposed amendments will make the recovery period consistent with that under the *Taxation Administration Act 1952* for GST, Luxury Car Tax and Wine Tax.⁹

Items 6 and 7 of Schedule 1 amend section 165 of the *Customs Act 1901* to allow the CEO to recover the payment of mistakenly refunded duty and short paid duty for up to four years. The proposed amendments will also extend the time limit for refund applications for overpaid duty to four years.

Maintenance of electronic communications systems by the ACS

New sections 126D-126G, dealing with the maintenance of electronic communications systems by the ACS, are inserted in the *Customs Act 1901* by **item 1 of Schedule 3** of the Bill.

Proposed section 126D provides that the Chief Executive Officer (CEO) of the ACS must establish and maintain information systems to enable people to communicate electronically with the ACS. The proposed section also requires the CEO to publish in the Commonwealth *Gazette* certain requirements, including:

- information technology requirements that have to be met by person who wishes to communicate with the ACS electronically
- action that a person has to take in order to verify the receipt of information communicated to the ACS electronically
- information technology requirements that have to be met to satisfy a requirement that a person's signature be given to the ACS in connection with information when the information is communicated electronically, and
- information technology requirements that have to be met to satisfy a requirement that a document be produced to the ACS when the document is produced electronically.

Proposed sections 126E and 126F deals with the situation when an information system becomes temporarily inoperative. **Proposed section 126F** provides that when a person who is liable to make a payment to the ACS, and would normally do so electronically, cannot do so because an information system is temporarily inoperative, they may give an undertaking to the ACS to make that payment as soon as practicable (not later than 24 hours after the CEO issues a notice stating the information system has become operative). Failure to give effect to an undertaking will constitute an offence of strict liability and attract a maximum fine of 50 penalty units (\$5500).

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Note:

- (a) **Rationale** – As noted correctly by the Government in its Explanatory Memorandum to the Bill, the *Customs Act 1901* currently sets out a number of electronic systems for customers to use when they are required to communicate with the ACS, including the import and export system COMPILE and EXIT.¹⁰ The Government states that:

In preference to this multiplicity of computer systems, Customs is creating a single integrated system so Customs and its client base can communicate with each other in relation to cargo being imported to and exported from Australia. This is known as the Cargo Management Re-entering Project, or CMR. This gives effect to the terms of the recently amended Kyoto Convention on the Simplification and Harmonisation of Customs Procedures, which requires Customs administrations to allow the lodging of information by electronic means. Generally speaking, people will be able to give Customs information via open communication systems that satisfy the technical requirements set down by Customs to ensure the integrity of the information received. This could include the use of the public Internet.¹¹

- (b) **Comment** – The effect of the proposed amendments and others in the Bill, such as **item 99 of Part 5 of Schedule 3** of the Bill, can be said to have the potential to give effect to the Government's rationale. However, the proposed amendments raise a number of questions which the Government's Explanatory Memorandum does not appear to answer, including:

- Is there sufficient flexibility built into the offence proposed by section 126F to cater for the vagaries of electronic information systems?
- Does the ACS have the resources and expertise to ensure honest compliance?
- Should different rules apply with respect to overseas information systems which become temporarily inoperative?

Self assessed clearance declaration

Item 37 of Part 2 of Schedule 3 of the Bill inserts **new sections 71-71AAB**, dealing with a self-assessed clearance declaration, in the *Customs Act 1901*. The key effect of the proposed provisions is to require specified owners of goods to report electronically the importation of goods valued at less than \$250, or a prescribed amount, and whether the goods are subject to quarantine in a 'self-assessed clearance declaration'. The owners which will be required to make a self-assessed clearance declaration include:

- owners of goods, other than prescribed goods, which are included in postal consignment that have a value not exceeding \$1000 or a prescribed amount, and

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

- owners of goods, other than prescribed goods, which are included in a consignment other than by post that are transported to Australia in the same aircraft or ship and have a value not exceeding \$250 or a prescribed amount.

Proposed sections 71AAA and 71AAB deal with the liability to pay the self-assessed clearance declaration charge. When a self-assessed declaration is communicated to the ACS the person who sent the communication, or a person on their behalf, will become liable to pay the self-assessed clearance declaration charge. The self-assessed clearance declaration charge will not be payable in respect of a declaration relating to the goods if the owner of the goods, or a person on their behalf, has communicated an abbreviated cargo report to the ACS, or the owner is exempted by the regulations.

Note:

Comment – The proposed amendments form part of an on-going attempt by this Government and the previous Labor Government to introduce a Customs compliance system based on self-assessment. Self-assessment systems, as evidenced by the taxation system, have a proven record of making the administration of the relevant system more efficient. In particular, such systems have allowed for scarce public administrative resources to be more sharply focused. On the negative side, self-assessment can be regarded as cost shifting.

Information contracts

The Bill proposes a new way for import/export information is to be reported to the ACS. Accredited importers/exporters will be able to communicate export information under the terms of an agreement entered into with the ACS. With respect to imports, the proposed new system is called a 'request for cargo release' (RCR). With respect to exports, the proposed new system is called 'credited client export authorisation numbers' (ACEANs). Accredited importers/exporters, as opposed to importers/exporters generally, will only have to communicate to the ACS minimum information at the time of import/export.

Proposed sections 71DD and 114BB, which are inserted in the *Customs Act 1901* by **items 38 and 62 of Schedule 3**, provide the Chief Executive Officer of the ACS with authority to enter into import/export information contracts with people for the purpose of enabling them to make RCRs in respect of the goods. The CEO is only to enter into such a contract where satisfied, as a result of an audit, that the person can provide the ACS with accurate information necessary to enable the ACS to perform duties in relation to goods imported/exported. The Bill also contains a provision listing companies that the CEO can enter into contracts with without them having to conduct an audit (**proposed subsections 71DD(3) and 114BB(3)**).

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Note:

- (a) Comment – The Government in its Explanatory Memorandum to the Bill states, in relation to **proposed subsections 71DD(3) and 114BB(3)**, that:

[T]his group was selected by Customs following an application process. To be accepted to pilot the arrangements, these companies' import and export procedures were subject to careful consideration by Customs. The development of individual contracts will allow the parties to tailor arrangements to meet their specific needs. The tailoring is limited to adjustments that do not require changes to legislation.¹²

Alignment of export entry thresholds

Subsection 133(2) of the *Customs Act 1901* exempts certain goods, such as passenger and crew baggage, from the requirement to lodge an export entry with the ACS. Under paragraph 133(2)(b) goods exported through Australia Post require an export entry if the bundle is valued at over \$2000, whilst under paragraph 113(2)(c) a bundle of goods exported as air or sea cargo require an export entry if they are valued at over \$500.

Item 56 of Schedule 3 of the Bill repeals paragraphs 133(2)(b) and (c) and inserts a **new paragraph 133(2)(b)** that will insert a export entry threshold of \$2000 for both goods exported via air and sea cargo and through Australia Post.

Export declarations

A **new section 114A**, dealing with the power of authorised officers in relation to export declarations, is inserted in the *Customs Act 1901* by **item 57 of Schedule 3**. The principal effect of the proposed section is to grant an authorised officer power, where an export declaration has been made in respect of goods, to refuse authority to deal with the goods until the authorising officer has verified particulars of the goods shown in the declaration. **Proposed section 114** defines what an 'export declaration' is. Basically, an export declaration is a communication to the ACS of information about goods that are intended for export.

Note:

Comment - While **proposed sections 114-114B** can be said to improve ACS compliance measures, the proposed sections raise a number of questions which the Government's Explanatory Memorandum does not appear to answer, including:

- in respect to **proposed section 114A**, how long will an authorised officer be able to refuse authority to deal with the goods?; and
- in respect to **proposed section 114A**, will compensation be payable where a delay in verification results in damage to the goods?

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Penalties

A significant feature of the proposed amendments is the introduction of a strict liability penalty regime for certain actions. Strict liability is liability regardless of fault. Essentially, the strict liability penalty regime will apply where:

- errors are made in communications with the ACS;
- communications to the ACS are not received; or
- goods are moved contrary to an ACS direction or without the permission of the ACS.

Note:

Comment - There is a defence to the offences of strictly liability proposed by the Bill, namely, mistake of fact. The defence of mistake of fact applies through the application of the *Criminal Code Act 1995*.

The Bill also introduces a 3 tier sanction regime for certain offences. With passage of the Bill the sanction regime under the *Customs Act 1901* will comprise:

- prosecution under section 234 of the *Customs Act 1901*;
- prosecution for a strict liability offence; and
- issuing of an infringement notice in lieu of prosecution for a strict liability offence.

Those offences which will attract the third tier, namely, the issuing of an infringement notice are listed in **proposed section 243X** which is inserted in the *Customs Act 1901* by **item 6** of **Schedule 2**. For example, an infringement notice may be issued in respect to an offence under **proposed section 114D**.

That section makes it an offence, punishable by a maximum fine of \$1100, for the owner of goods in respect of which an export entry has been communicated to the ACS to not deal with the goods in accordance with the entry and to remove goods from the possession of the person to whom they were delivered or subsequently passed unless the entry has been withdrawn.

Note:

Comment - The rationale given by the Government in its Explanatory Memorandum to the Bill for the proposed new penalty regime include:

The current administrative penalty provisions in section 243T and 243U of the Customs Act do not reflect best practice in relation to penalties issued for errors made under self-assessment regimes. The current administrative penalty system is limited to duty related errors appearing on import entries only. Administrative penalties are

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

currently not available for errors on export entries, refunds or drawback applications, nor for late or inaccurate cargo reports or unauthorised movement of goods.¹³

Repeal of *Import Processing Charges Act 1997*

Item 1 of Schedule 4 of the Bill repeals the *Import Processing Charges Act 1997*. The *Import Processing Charges Act 1997* is being replaced by the proposed *Import Processing Charges Act 2000*.

Endnotes

- 1 Customs Legislation Amendment and Repeal (International Trade Modernisation) Bill 2000, Explanatory Memorandum, p. 102.
- 2 *ibid*, p. 102.
- 3 *ibid*, p. 79.
- 4 *ibid*, p. 79.
- 5 *ibid*, p.80.
- 6 *ibid*, p. 76.
- 7 *ibid*, p. 77.
- 8 *ibid*, p. 77.
- 9 *ibid*, p. 81.
- 10 *ibid*, p. 69.
- 11 *ibid*, pp. 69 and 70.
- 12 *ibid*, p. 85.
- 13 *ibid*, p. 106.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.