



Customs Legislation Amendment (Name Change) Bill 2009

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Contents

Purpose	2
Background	2
Press Commentary	4
Australian Customs and Border Protection Service	4
Financial implications	5
Main provisions	5

Customs Legislation Amendment (Name Change) Bill 2009

Date introduced: 12 March 2009

House: House of Representatives

Portfolio: Home Affairs

Commencement: On the day after the Royal Assent

Links: The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

The purpose of the Bill is to amend the *Customs Administration Act 1985* (CAA) to rename the Australian Customs Service as the Australian Customs and Border Protection Service.

In addition, the Bill amends 24 other Commonwealth Acts to replace references to the 'Australian Customs Service' with references to 'Customs'.

Background

'The first and fundamental responsibility of any Australian government is to provide for the security and safety of the Australian people, the defence of the country and the protection of the nation's interests abroad'.¹ The term homeland security refers to a security effort by a government to protect a nation against perceived external or internal threat.

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1. Australian Homeland Security Research Centre, '*Labor's Flagged National and Homeland Security Principles, Policies and Initiatives*' available at Australian Homeland Security Research Centre website: http://www.homelandsecurity.org.au/files/NSPN_Labor_policiesSept07.pdf, accessed on 17 March 2009.

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On 22 February 2008 the Prime Minister, the Hon. Kevin Rudd MP announced that the Australian Government would ‘undertake a comprehensive review of homeland and border security arrangements in Australia’.² He stated that:

the Review will consider the roles, responsibilities and functions of departments and agencies involved in homeland and border security. The Review will also consider possible changes to optimise the coordination and effectiveness of our homeland and border security efforts.³

The report by Mr Ric Smith AO PSM,⁴ who carried out the Review, was presented to the Australian Government on 27 June 2008. Neither the report itself, nor ‘a censored version’, were made available to the public.⁵

However the [Summary and Conclusions](#) of the Review were published on 4 December 2008. In particular it was considered that:

Controlling the border is critical to effective national security. Australia has to date retained control of its border, but this is a complex task ... Rather than bringing key border functions together into a ‘single border agency’, a whole-of-government strategic planning framework would better suit Australia. Such a framework should cover the full range of border management functions across all agencies, bringing them together to ensure they are consistent and complementary and that investment is appropriately prioritised.⁶

The Government’s response to the report took the form of a [National Security Statement](#) made by the Prime Minister on 4 December 2008. In relation to the matter of people-smuggling, Mr Rudd stated:

The Government has decided therefore to move quickly to better enable the existing Australian Customs Service to meet this resurgent threat to our border integrity. To this end we will in coming weeks establish new arrangements whereby the Australian Customs Service is augmented, re-tasked and re-named the Australian Customs and Border Protection Service. This arrangement will create in the Australian Customs

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2. The Hon. Kevin Rudd MP, Prime Minister, ‘[Homeland and Border Security Review](#)’, Media Release, Canberra, 22 February 2008.
 3. *ibid.*
 4. Mr Smith was the Secretary of the Department of Defence from 2002 to 2006. Prior to this, Mr Smith was Australia’s Ambassador to Indonesia and also to the People’s Republic of China. He is a highly experienced and qualified person to lead this important high level review.
 5. Paul Maley, ‘[Labor likely to scrap US-style homeland security department](#)’, *Australian*, 15 July 2008, p. 6.
 6. ‘Summary and Conclusions: Report of the Review of Homeland and Border Security’, Canberra, 4 December 2008, p. 5.

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and Border Protection Service a capability to task and analyse intelligence, coordinate surveillance and on-water response, and engage internationally with source and transit countries to comprehensively address and deter people smuggling throughout the operating pipeline from source countries to our shores. The co-location of agencies and capabilities in this way is a concept strongly supported by the Homeland and Border Security Review.⁷

The Bill gives effect to the commitment to rename the Australian Customs Service in the National Security Statement.⁸

Press Commentary

It has been reported that in delivering the National Security Statement, the Prime Minister has

... formally abandoned the plan for a massive new department of homeland security that Labor took to the past three elections.

And he has also quietly put to rest the ALP's push for a US-style coastguard, opting instead to rebadge and strengthen the Customs Service as the Australian Customs and Border Protection Service.⁹

And further

The Australian Customs and Border Protection Service will tackle threats posed by global organised crime, including an unwelcome return of people smugglers.¹⁰

Australian Customs and Border Protection Service

According to their website, the

Australian Customs and Border Protection Service manages the security and integrity of Australia's borders. It works closely with other government and international agencies, in particular the Australian Federal Police, the Australian Quarantine and Inspection Service, the Department of Immigration and Citizenship and the

7. The Hon. Kevin Rudd, Prime Minister, '[National Security Statement](#)', *House Hansard*, 4 December 2008, p. 12555.

8. The Australian Customs Service was established as an independent agency of the Australian Public Service by the *Customs Administration Act 1985*. This will be its first change of name.

9. Brendan Nicholson, '[Rudd scraps plan for new department, coastguard: climate change joins list of threats](#)', *The Age*, 5 December 2008, p. 10.

10. Mark Dodd, '[PM wants to redraw security priorities](#)', *The Australian*, 5 December 2008, p. 1.

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Department of Defence, to detect and deter unlawful movement of goods and people across the border.¹¹

Financial implications

According to the Explanatory Memorandum the measures in the Bill have no financial impact.¹²

Main provisions

Schedule 1 of the Bill contains amendments to the CAA.

Item 1 amends the Long Title of the CAA to clarify that the CAA is an Act to provide for an Australian Customs and Border Protection Service.

Item 2 amends section 4 of the CAA so that the Australian Customs Service continues in existence with the new name of the Australian Customs and Border Protection Service.

Items 3 and **5–7** amend existing references to Australian Customs by inserting the additional words ‘and Border Protection’ to give uniform effect in the CAA to the change of name.

Item 4 inserts a **new section 4AA** which clarifies that the meaning of “Customs”, when used in Commonwealth Acts, will have the same meaning it had prior to the renaming of the Australian Customs Service. Schedule 2 of the Bill amends the following Commonwealth Acts:

- *ACIS Administration Act 1999*
- *Air Services Act 1995*
- *A New Tax system (Goods and Services Tax) Act 1999*
- *A New Tax System (Wine Equalisation Tax) Act 1999*
- *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*
- *Australian Crime Commission Act 2002*
- *Australian Nuclear Science and Technology Organisation Act 1987*
- *Australian Postal Corporation Act 1989*

11. Australian Customs and Border Protection Service website available at: <http://www.customs.gov.au/site/page.cfm?u=4222>, accessed on 16 March 2009.

12. Explanatory Memorandum, p. 2.

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- *Australian Sports Anti-Doping Authority Act 2006*
- *Civil Aviation Act 1988*
- *Crimes Act 1914*
- *Criminal Code Act 1995*
- *Customs Act 1901*
- *Environment Protection (Sea Dumping) Act 1981*
- *Evidence Act 1995*
- *Excise Act 1901*
- *Fisheries Management Act 1991*
- *Hazardous Waste (Regulation of Exports and Imports) Act 1989*
- *Horticulture Marketing and Research and Development Services Act 2000*
- *Imported Food Control Act 1992*
- *Maritime Transport and Offshore Facilities Security Act 2003*
- *Migration Act 1958*
- *National Health Act 1953*
- *Privacy Act 1988*

Items 1–3, 5–14, 16–20, 23–30, 34–36 and 38–46 each omit existing references to the Australian Customs Service and substitute new references to Customs.

Subsection 13(2) of the *Customs Act 1901* (Customs Act) provides the design of the Customs Seal. **Item 22** amends existing paragraph 13(2)(b) of the Customs Act by omitting a reference to H.M. Customs and substituting a reference to Customs and Border Protection. The effect of the amendment will be that the words “Australia—Customs and Border Protection” appear on the Customs Seal.

Items 31–33 amend the *Excise Act 1901* so that existing references to ‘the Customs’ are omitted and substituted with references to Customs.

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