

## QUESTION TAKEN ON NOTICE

### SUPPLEMENTARY BUDGET ESTIMATES – 20 OCTOBER 2014

#### IMMIGRATION AND BORDER PROTECTION PORTFOLIO

#### (SE14/050) PROGRAMME – Australian Customs and Border Protection Service

Senator Leyonhjelm (Written) asked:

Who determines what qualifies as a flick knife? Please provide a copy of the guidelines for this.

- a. Who was consulted when the definition/guidelines were adopted?
- b. When were the guidelines last reviewed?
- c. Has Customs received any complaints in relation to application of the guidelines? If yes, what was the outcome of the complaints?
- d. Has Customs released any products as result of any complaint(s)?

*Answer:*

The Australian Customs and Border Protection officer who inspects the goods on arrival into Australia will determine if the goods meet the *Customs (Prohibited Imports) Regulations 1956* definition. Those goods reasonably suspected to be prohibited imports would be withheld and if no import permission was in place for the goods, they would likely be seized.

Internal guidelines regarding the classification of knives subject to control as single handed opening knives is based on the information provided in the explanatory memorandum introducing the control, and states the following for Schedule 13 Item 16:

#### Item 16 Definition and Policy – Single Handed Opening Knives

*Single handed opening knives, being knives that have a blade folded or recessed into the handle which is capable of being opened by gravity, inertia or centrifugal force.*

*The scope of the definition remains unchanged, but clarifies the intention of terms utilised to describe the opening methods of the various knives with deployable blades, including:*

- (a) *a knife that opens through the use of inertia and or centrifugal force. This is intended to cover knives where the blade of the folding knife may be fully opened with the flick or double-action of the wrist. The requirement for some skill to release the blade into a fully opened position utilising centrifugal or inertial force is not intended to preclude a knife from being classified as a single handed opening knife.*

(b) *a knife that opens through the use of gravity. This is intended to cover knives which may be opened by force of gravity. The knife may be additionally controlled by a lever or button, but typically, applying pressure to such a device and pointing the knife downward will result in the knife's blade releasing and locking into place.*

*To open a knife using inertia or centrifugal force you may need to hold the knife in the hand in a horizontal position to the floor with the blade facing toward the floor and then move the knife in a downward then upward position with the force of your wrist. This technique has been found to be the easiest method to open knives using centrifugal force. However, there are other techniques that can be used. Please contact Firearms and Weapons Policy for video examples.*

*A knife must be openable by gravity, inertia or centrifugal force from the fully closed position to the fully open position for it to meet the definition. It cannot open using gravity, inertia and centrifugal force along with a manual movement from the user. For example, a knife that requires the user to open the blade partially using a manual movement and then use centrifugal force to continue opening the knife is not controlled.*

*The definition is not meant to cover knives such as Stanley knives or craft knives that have a blade that extends if the user pushes a sliding button. When the user stops pushing the slide, the knife stops extending, so the knife is not automatic. The definition is not meant to cover shaving blades, which can be opened via inertia or centrifugal force.*

- a. The original definition for 'flick knives and similar devices' was agreed to through the Uniform Prohibited Weapons List (UPWL) as developed by the 37<sup>th</sup> Meeting of the Australian Police Ministers Council in 1999. This definition included knives that opened by 'centrifugal force'.

The December 2011 amendment was intended to clarify import requirements for 'flick knives or similar devices'. The amendment clarified that importation of 'Automatic knives' or 'Single handed opening knives' was subject to an importer demonstrating a legitimate end-use (such as for official purchase by a law enforcement agency or the military).

These amendments did not extend import requirements to any other folding knives that were not previously controlled under the 'flick knives or similar devices' definition in the regulations.

All state and territory jurisdictions but one have wording identical or similar to the pre 14 December 2011 *Customs (Prohibited Imports) Regulations 1956* definition. The changes to the *Customs (Prohibited Import) Regulations 1956* were designed to provide clarity to importers without expanding the scope of the previous control on these items.

- b. The current guidelines were approved for use on 14 August 2012.

- c. The Australian Customs and Border Protection Service (ACBPS) has received correspondence, including complaints, in relation to the application of the definition of single handed opening knives under the Regulations. Each matter is handled on a case by case basis, depending on the nature of the complaint.
- d. Where ACBPS has determined that the goods do not meet the legislative definition of a 'single handed opening knife' under the Regulations, and where the goods are not subject to any other legislative controls, the goods are released.