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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

IMPORT PROCESSING CHARGES AMENDMENT BILL 1999

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Justice and Customs,
Senator, the Honourable Amanda Vanstone)

IMPORTS PROCESSING CHARGES AMENDMENT BILL 1999

OUTLINE

This Bill complements the proposed amendments to the *Customs Act 1901* contained in the Customs Amendment Bill (No.2) 1998 ("the Customs Bill").

The Customs Bill proposes to introduce a new registration and reporting scheme ("the Scheme") that, among other matters, permits owners of ships or aircraft, who are already registered users under the Air Cargo Automation System or Sea Cargo Automation System under section 67C of the *Customs Act 1901* ("the Act"), to register as special reporters under the Scheme.

As special reporters, the owners of a ship or aircraft are allowed to make a shorter form of cargo report for high volume low value consignments for the following classes of cargo:

- cargo consigned from a particular mail-order house; or
- cargo comprising reportable documents; or
- cargo comprising other goods of a kind prescribed by the regulations.

This Bill amends the *Import Processing Charges Act 1997* to introduce the lower amount of screening charge to apply to those owners of a ship or aircraft who are registered as special reporters under the Scheme.

This Bill proposes to reduce the amount of screening charge from \$2.40 per line in each cargo report to \$45 for an electronic cargo report (or documentary report where the ability to make an electronic report is temporarily unavailable) made under the Scheme.

REGULATION IMPACT STATEMENT

PROPOSAL FOR SPECIAL REPORTING AND CLEARANCE ARRANGEMENTS FOR HIGH VOLUME, LOW VALUE CONSIGNMENTS

1. Specification of Policy Objective(s)

Background

The *Customs Amendment Act (No.1) 1997* introduced cost recovery charges relating to the reporting and clearance of cargo. In particular, section 64ABC of the Act introduced the liability to pay a screening charge.

Section 7 of the *Import Processing Charges Act 1997* determined the amount of the screening charge to be \$2.40 for each line of the cargo report that

relates to a consignment of goods the value of which does not exceed \$250. This means that if a cargo report contained 100 lines relating to consignments with a value less than \$250, the total screening charge which is payable would be \$240. If the consignment is valued at more than \$250, then the consignment is required to be formally entered in accordance with section 68(1)(a)-(c) of the Act.

All cargo landed in Australia is required to be reported to Customs in accordance with section 64AB of the Act. This report is required from the person who is responsible for the transport of the cargo to Australia (herein referred to as "the reporter"). It is the means by which Customs establishes that goods are landed in Australia and the trigger to account for the goods for revenue and community protection purposes (that is, the detection of illicit drugs and other prohibited goods).

Cargo is required to be reported at the consignment level. A consignment is represented by a commercial contract between the consignor and a transport organisation (e.g. airline company, freight forwarder or express courier) related to the transport of particular goods to the consignee in Australia. The transport organisation is the reporter for the purposes of the Act. In relation to air transport, the contract can take the form of a master air waybill (MAWB), submaster waybill (SMAWB) or consignment note.

These documents may represent contractual arrangements not only related to the consignor and the reporter, but also reflect the contractual arrangements between different transport organisations related to the sub-letting of space on a particular flight or voyage. MAWBs and SMAWBs can act as umbrella documents representing many consignment notes.

Customs operates a computer system named Air Cargo Automation (ACA) which enables persons required to report air cargo to Customs, in accordance with section 64AB of the Act, to do so electronically.

Section 68 of the Act requires all goods imported into Australia to be entered. There are a number of exceptions to this requirement. Under section 68(1)(f) of the Act, if the goods are valued at less than \$250 an entry is not required. To determine whether an entry is required, Customs screens the cargo report to identify which consignments may be released without an entry.

In circumstances where a consignment is valued at less than \$250 but Customs duty and sales tax of more than \$50 is payable, the consignment is not released until the Customs duty and sales tax have been paid. Customs By-Law 9640087, Item 32B of Schedule 4 to the Customs Tariff Act 1995 enables Customs to waive the payment of Customs duty and sales tax where the combined amount payable is less than \$50 on any one consignment.

Besides determining whether an entry is required or duty is payable on a consignment, Customs also checks the information pertaining to the consignment for prohibited imports (such as illicit drugs) and other community protection matters (e.g. goods subject to quarantine).

The screening charge is payable by the reporter. It is payable in relation to those consignments which are not required to be entered in terms of section 68(1)(f) of the Act.

The screening charge of \$2.40 for each consignment is based on the cost of Customs' maintenance and development of ACA. The cost of screening for community protection purposes is not included in this calculation. The majority of reporters reporting air cargo, report their cargo electronically. The charge also includes costs related to the screening element of the process which is performed manually by Customs officers. Consignments valued at less than \$250 by their nature are usually imported as air cargo.

Issues

Subsequent to the implementation of the screening charge, a number of consequential issues have been identified.

- *Document consignments*

Enormous numbers of consignments of documents arrive in Australia, for example, a minimum of 120,000 consignments arrive at Sydney's Kingsford Smith Airport each week. Over the past 10 years, this business has grown by 650%.

Currently, these consignments are not reported individually by reporters on ACA in accordance with section 64AB of the Act. While they are not reported at the consignment level, reporters, namely express couriers, do report consignments at a consolidated level - the MAWB or SMAWB level.

However such reports do not provide Customs with the information required in terms of section 64AB of the Act and are merely an alert to Customs that a bulk consignment of documents has landed. Consequently, Customs is unable to properly screen the consignments, other than by physical random checks. At the same time it should be noted that ACA does not have the capacity to handle the large volumes of bulk consignments entering the country.

Because the consignments are not reported individually on ACA, Customs is unable to determine the number of these consignments. Consequently Customs is unable to apply the screening charge on each consignment as required by section 7 of the *Import Processing Charges Act 1997*. This is inequitable to all other reporters who are required to report cargo at the consignment note level and do report consignments at this level.

The effect is that the reporters of document consignments are not paying any screening charges on document consignments, whereas all other reporters of consignments are paying the screening charge. Customs uses the same screening process for all consignments and therefore the screening cost is incurred by all reporters of consignments with a value of less than \$250.

- *Mail order consignments*

A number of freight forwarders are making arrangements with overseas mail order houses whereby the freight forwarder arranges consolidation and transport of the mail order consignments from these mail order houses to Australia and then arranges for their local distribution. These consignments are currently being reported on ACA and the persons making the report are paying the screening charge.

Although starting from a low base figure, this business is growing by 600% annually. Such a growth rate will place increasing pressure on ACA. A feature of these consignments is that there is a certain predictability about their contents, because Customs knows of the particular mail order house with which the freight forwarder is dealing.

Currently, freight forwarders involved in the transportation of mail order consignments are reporting all their consignments on ACA. They are paying the screening charge for each consignment which has a value of less than \$250.

- *The cost of screening document and mail order consignments*

Because Customs recognises that there is a degree of predictability about the contents of document consignments and mail order consignments, it does not normally screen such consignments with the same intensity as other consignments

2. Identification of implementation option(s)

Under current arrangements there are inconsistencies in the way costs are recovered:

- Express couriers involved in the transportation of bulk consolidated documents are not paying a screening charge but should be paying a charge because such consignments are subject to screening.
- Freight forwarders involved in the transportation of bulk consolidated mail order consignments are paying the screening charge.

Objectives

The objective of the proposal is to ensure that the screening charge is applied in a manner consistent with the cost of processing consignments across all persons involved in the report of consignments with a value of less than \$250. This can be achieved by:

- amending the current cargo reporting provisions of the Act to enable bulk consolidated consignments, namely, bulk document shipments and bulk

mail order consignments to be reported in a different manner to other cargo; and

- introducing a separate screening charge on such bulk consolidated shipments, reflecting the fact that Customs does not apply the same intensity of processing resources to such consignments.

The issue of the screening charge being applied in a manner consistent with the cost of processing consignments can be resolved by firstly making the reporters of bulk document consignments, namely express couriers, actually report each consignment to Customs. Currently, such consignments are only reported as a consolidation of consignments at the MAWB/SMAWB level. Such reports do not provide any details of individual consignments.

Customs is unable to insist that all individual consignments be reported on ACA because of the considerable pressure such reporting would place on the capacity of ACA. If Customs was to insist on cargo being reported on ACA the capacity of the system would need to be increased four fold at an estimated cost of \$2,000,000.

It is therefore proposed to introduce a scheme whereby express couriers and freight forwarders may apply to Customs to report bulk document shipments and bulk mail order consignments at the MAWB/SMAWB level rather than at the consignment level. This would be permitted, subject to certain conditions being met by them.

The most important of these conditions is that Customs would be allowed to access the details of each consignment covered by the MAWB/SMAWB on the express courier's or freight forwarder's electronic in house records. Such access would overcome the need for express couriers and freight forwarders to report these details on ACA. Customs would administer the arrangements by extension of its current compliance auditing and risk management practices.

The other conditions which the applicants must meet to be eligible to join the scheme are:

- the applicant must already be a registered user of ACA in accordance with section 67C of the Act;
- the applicant must be a "fit and proper" person;
- the applicant must advise Customs of changes in company management;
- the applicant must keep the details of each consignment which would otherwise be required to be reported for 2 years after the date of arrival of the consignment on dedicated computer facilities;
- the applicant must transmit the information to Customs if required; and
- the applicant must have an agreement with the mail order house where the applicant is a freight forwarder dealing in bulk mail order consignments, and to advise Customs of any changes to such an agreement.

A new screening charge of \$45 per MAWB/SMAWB is proposed to be introduced for these consignments. This charge will be less than the current \$2.40 per consignment as usually more than 300 consignments are attached to each MAWB or SMAWB. This new charge reflects the lesser cost to Customs of screening all bulk document and bulk mail order consignments.

3. Assessment of impact (cost and benefits) of options

Impact group identification

- *Express couriers involved with bulk document shipments*

Express couriers involved in the movement into Australia of bulk consolidated consignment of documents, who will for the first time be required to pay a screening charge for each MAWB/SMAWB (\$45). If they are not part of the scheme the standard charge of \$2.40 for each consignment will be applied. There are some 30 express couriers affected by the proposal.

It is estimated that during 1998 calendar year some 16,336 MAWBs/SMAWBs will be reported. At \$45 per MAWB/SMAWB the total cost to freight forwarders will be \$735,120 annually. It is expected that the charge will be passed onto the importer.

It should be noted that if the current screening charge was applied to them, the cost would be considerably more. Based on the current estimate of 120,000 consignments arriving in Sydney each week, the annual cost would be \$14,960,400.

- *Freight forwarders involved with bulk mail order consignments*

Freight forwarders involved in arrangements with overseas mail order houses to move bulk consolidated low value mail order consignments into Australia will pay a screening charge for each MAWB/SMAWB of \$45 rather than \$2.40 for each consignment. There are only a small number of freight forwarders affected by the proposal.

It is estimated that during 1998 calendar year some 520 MAWBs/SMAWBs will be reported. At \$45 per MAWB/SMAWB the total cost to freight forwarders will be \$23,400 annually. This cost compares to the estimated costs for 1997/98 of \$1,200,000 based on the screening charge of \$2.40 per consignment.

- *Freight forwarders involved with other consignments valued at less than \$250*

The screening charge will remain the same for all other consignments, not being bulk consignments, reported by freight forwarders, airline companies and shipping companies.

- *The general impact on small business*

The scheme is about resolving issues related to high volume transactions. It defines minimum volumes of transactions which applicants must satisfy to join the scheme. Because the scheme is about high volumes, it is possible to argue that some small businesses could be excluded from joining it on the basis that the size of the business is linked to number of transactions. The minimum volumes have been set to take account of the majority of current participants in the industry including those in the industry who could be regarded as small businesses. If the volume of transactions for eligibility purposes is set too low then the administrative viability of the scheme will become questionable.

Assessment of costs

The administration of the proposal will be cost neutral. The administration costs are estimated at \$750,000. Some resources will be saved by not undertaking some of the current screening functions related to these consignments. These resource savings will be diverted to undertaking functions associated with compliance auditing and the administrative arrangements.

Express couriers involved in the movement of bulk document consignments and freight forwarders involved in bulk mail order consignments will experience a lower screening charge cost compared to the current charge associated with the present screening charge. The new charge reflects the lower cost to Customs associated with screening bulk consignments. The screening charge will remain the same for all other persons currently required to pay the charge.

However they may also incur some costs to operate under the scheme. These costs are associated with ensuring computer systems are compatible. At this point it is not possible to give a firm estimate of this cost, as this is dependent on the final technical solutions. However, such costs are not expected to be significant. The technical arrangements and costs will be negotiated with the express couriers and freight forwarders.

Assessment of benefits

Express couriers and freight forwarders who are eligible to join the scheme will enjoy considerable cost saving to them. The ability of the express couriers and freight forwarders to grade the consignments into the types of goods (i.e. bulk document consignments and bulk mail order consignments) prior to shipping adds predictability to these imports and minimises their risk for Customs purposes.

Because the Customs risk is lower for these types of consignments, Customs is not required to devote the same level of resources to them to ensure compliance. Customs is recognising the lower administrative costs by

reducing the screening charge for eligible express couriers and freight forwarders.

The new screening charge will more accurately reflect the cost of screening such consignments by Customs compared to all other consignments.

The proposal will also restore equity between express couriers involved in the reporting of bulk document consignments and freight forwarders involved in the reporting of bulk mail order consignments and other freight forwarders involved in the reporting of consignments with a value of less than \$250.

The new reporting arrangements will provide Customs with a more accurate and effective report of the importation of such bulk consignments. This is particularly important in relation to bulk document consignments. Random checks of these bulk consignments have detected goods other than documents in them, including illicit drugs. The arrangements will provide Customs with information to detect such irregularities and ensure Customs duty and Sales tax are collected on them.

The proposed arrangements will also assist Customs in detecting illicit drugs and other prohibited goods and quarantinable goods in such consignments. The reporting information will enable Customs to use electronic profiling systems thereby increasing the effectiveness of the screening process for this purpose.

Consultation

Discussions have been held with the express couriers (the International Air Couriers Association of Australia) and freight forwarders involved in the movement of bulk document consignments and bulk mail order consignments. They support the Customs proposal.

4. Implementation and review

It is proposed to introduce the scheme as soon as practicable after the passage of this Bill through the Parliament. Discussions will be held with the express couriers and the freight forwarders to ensure that they are familiar with the operation of the scheme, including the application procedure, the electronic record keeping arrangements, and audit arrangements.

The scheme will be subject to on going monitoring by the Australian Customs Service to ensure that there is consistency in the distribution of cost associated with the processing of consignments, the charges remain cost neutral and the benefits outlined above are achieved.

FINANCIAL IMPACT STATEMENT

The administrative cost to Government of the proposed legislative change will be diminutive. Currently, freight forwarding companies are paying Customs

approximately \$1,000,000 annually in screen free charges. Revenue under the proposed scheme is estimated at \$750,000. This revenue is anticipated to be commensurate with the costs expected to be incurred in the processing of the high volume, low value transactions under the Scheme.

With regard to the screening associated with the detection of prohibited goods, Customs is currently developing the Advanced Cargo Profiling System. This development is separately funded at a cost of \$2.8 million under the Government's National Illicit Drugs Strategy.

IMPORT PROCESSING CHARGES AMENDMENT BILL 1998

NOTES ON CLAUSES

Clause 1 – Short title

This clause provides for the Act to be cited as the *Import Processing Charges Amendment Act 1999* (Amendment Act).

Clause 2 - Commencement

Subclause (1) provides for the Amendment Act to commence on the day on which it receives the Royal Assent, subject to subclauses (2), (3) and (4).

Subclause (2) provides for item 1 of Schedule 1 to be taken to have commenced on 26 February 1997.

Subclause (3) provides for items 2 to 7 of Schedule 1 to commence on a day to be fixed by Proclamation, subject to subclause (4).

Subclause (4) is a standard provision that applies if the Amendment Act is not proclaimed within a period of six months after it receives the Royal Assent. In such an event, items 2 to 7 of Schedule 1 shall commence on the first day after that period.

Clause 3 - Schedule

This clause is the formal enabling provision for the Schedules to the Amendment Act, providing that each Act specified in the Schedules is amended or repealed in accordance with the applicable items of the Schedule. The clause also provides that any other items in a Schedule have effect according to its terms. This is a standard enabling clause for transitional, savings and application items in amending legislation.

SCHEDULE 1 – AMENDMENT OF THE IMPORT PROCESSING CHARGES ACT 1997

Item 1 – Section 3 (paragraph (a) of the definition of *line*)

This item inserts the word “electronic” after the word “documentary” wherever occurring in paragraph (a) of the definition of the term *line* in section 3 of the *Import Processing Charges Act 1997* (“the Charges Act”).

The definition of the term *line* was originally intended to include an electronic report as well as documentary report. This amendment, therefore, implements that intention.

Item 2 – Section 3

This item inserts the definition of the expression *low value cargo* into section 3 of the Charges Act. This definition has the same meaning as in proposed new section 63A of the *Customs Act 1901* ("the Customs Act") which is being inserted by item 4 of Schedule 1 to the Customs Amendment Bill (No.2) 1999 (the Customs Bill).

Item 3 – Section 3

This item inserts the definition of the expression *mail-order house* into section 3 of the Charges Act. This definition has the same meaning as in proposed new section 63A of the Customs Act that is being inserted by item 4 of Schedule 1 to the Customs Bill.

Item 4 – Section 3

This item inserts the definition of the expression *reportable document* into section 3 of the Charges Act. This definition has the same meaning as in proposed new section 63A of the Customs Act that is being inserted by item 4 of Schedule 1 to the Customs Bill.

Item 5 – Section 3

This item inserts the definition of the expression *special reporter* into section 3 of the Charges Act. This definition has the same meaning as in proposed new section 63A of the Customs Act that is being inserted by item 4 of Schedule 1 to the Customs Bill.

Item 6 – Section 7

This item repeals section 7 of the Charges Act and substitutes it with a new section 7 to introduce the new lower screening charge for reports made under the new registration and reporting scheme ("the Scheme") proposed in the Customs Bill.

The new section 7 sets out the new screening charge payable in respect of a documentary or an electronic report that is, or is a part of, a cargo report as follows:

- unless new paragraphs 7(b), (c), or (d) applies or the report or that part of the report relates to goods in respect of which, in accordance with subsection 64ABC(1A) of the Customs Act, there is no liability for screening charge - \$2.40 for each line of the documentary or electronic report that relates to a consignment of goods of a kind referred to in

paragraph 68(1)(f) of the Customs Act or such other amount for each such line, not exceeding \$3.60, as is prescribed – new paragraph 7(a).

New paragraph 7(a) is basically a remake of the present section 7 subject to the exceptions set out in new paragraphs 7(b), (c), (d) or the exemption to liability contained in new subsection 64ABC(1A) . The charge of \$2.40 per line applies unless new paragraphs 7(b), (c) or (d) or the exemption in new subsection 64ABC(1A) applies.

- if the report is made by a special reporter at the level of specificity of an ocean bill of lading or master or submaster air waybill, in relation to low value cargo consigned from a mail-order house or low value cargo comprising reportable documents to which the registration of that special reporter under the Scheme applies - \$45 for the report or such other amount, not exceeding \$67.50, as is prescribed – new paragraphs 7(b) and (c);
- if the report is made by a special reporter at the level of specificity of an ocean bill of lading or master or submaster air waybill, in relation to low value cargo of any other kind to which the registration of that special reporter applies – such amount in respect of each report, not exceeding \$67.50, as is prescribed – new paragraph 7(d).

Item 7 – Saving provision

This item ensures that, despite the repeal of section 7 of the Charges Act as in force before the commencement of items 2 to 6 of Schedule 1 to this Bill, the liability of any person to pay any charge under that section as so in force in respect of any cargo report made before that commencement continues to exist as if the repeal had not been made.