

CUSTOMS (AMENDMENT) BILL 2012

EXPLANATORY MEMORANDUM

This Bill seeks to provide a system whereby persons entering Norfolk Island by air may be permitted to collect low duty tobacco products upon arrival. The Bill provides for arriving passengers who have already ordered and paid for a quantity of cigarettes or other tobacco products to collect them before passing through customs. The Bill does not make any change to existing rules relating to the export of tobacco products or the rates of duty.

The Bill provides as follows:

1. **Clauses 1, 2 and 3** provide for the short title of the Act, the commencement date and the reference to the Act being amended,
2. **Clause 4** sets out in the Schedule the amendments to the *Customs Act 1913* that are made by the Bill. These are—

Item 1 makes provision such that tobacco products purchased before arrival and delivered to what is called an “inwards low duty collection kiosk” that do not exceed a prescribed amount are not to be subject to duty as goods imported for home consumption.

Item 2 makes it clear that goods entered on arrival as being entered under the new provision (4AAD) are taken to have been so entered.

Item 3 introduces a new section 4AAD headed “Inwards low duty collection kiosk”. The purpose of this section is to enable a place to be designated at the secure entry hall of the airport terminal where tobacco products can be collected in accordance with the section before the person making the collection passes through customs. To this intent—

Subsection (1) provides a number of definitions used in the section including the “inwards low duty collection kiosk”; the “proprietor” – the person who holds the warehouse licence attached to the kiosk; and the “relevant traveller” who is the person who comes into Norfolk Island on an incoming flight, who has not yet gone through customs.

Subsection (2) only permits a warehouse licence attached to a kiosk to deliver tobacco products at the arrival terminal before an incoming passenger passes through customs.

Subsection (3) empowers the Collector to give permission (in accordance with any Regulations) to the delivery of tobacco products specified in the permission to a relevant traveller if the goods have been paid for by the traveller and provided the traveller then declares the goods at the time of passing through customs. It is to be noted that the traveller must be identifiable as the person who ordered and paid for the goods.

Subsection (4) reinforces that the goods must have been paid for by the traveller before arrival in Norfolk Island.

Subsection (5) requires the permission of the Collector under subsection (3) to be in writing and delivered to the proprietor of the kiosk.

Subsection (6) provides a number of matters that may be prescribed in regulations for subsection (3).

Subsection (7) empowers the Collector to impose conditions on an approval given under subsection (3).

Subsection (8) further expands upon the content of a condition imposed upon the proprietor of a kiosk.

Subsection (9) requires any condition revocation or variation of a permission under subsection (7) to be in writing but provides that a delivery to a traveller before any variation or cancellation takes effect is not affected.

Subsection (10) deals with the extent to which a permission suspension or revocation may apply.

Subsection (11) requires a proprietor to ensure that a traveller wishing to purchase tobacco products under these provisions is made aware of the applicable rules.

Subsection (12) makes it an offence for a person required to comply with a condition imposed under subsection (3) to fail to so comply.

Subsection (13) provides that the offence under subsection (12) is an offence of strict liability which means that it is not required to prove an intent to break the law.

Subsection (14) provides the specific power to the Collector to revoke a permission given under subsection (3).

Subsection (15) requires the Collector to give reasons for a decision to revoke a permission.

Subsection (16) provides that tobacco products paid for and delivered in accordance with this new section are not subject to the provisions of section 4AC (converting special warehousing to home consumption) or 4AAC (converting low duty cigarettes and tobacco to home consumption).