

Legislation Excerpts

CUSTOMS ACT 1901 - SECT 234AA Places set aside for purposes of Act

(1) Where a [place](#):

(a) is to be used by [officers](#):

- (i) for questioning, for the purposes of [this Act](#) or of any other law of the Commonwealth, passengers disembarking from or embarking on a [ship](#) or [aircraft](#); or
- (ii) for examining, for such purposes, the [personal](#) baggage of such passengers; or
- (iii) as a holding [place](#) for such passengers; or

(b) is covered by a notice under subsection (3);

a Collector, or a [person](#) authorized by a Collector to do so, may cause signs to be displayed at or near the [place](#) that identify the [place](#) and state that entry into it by unauthorized [persons](#) is prohibited by [this Act](#).

(2) Where a sign is displayed in relation to a [place](#) under subsection (1), a Collector, or a [person](#) authorized by a Collector to do so, may cause signs to be displayed at or near the [place](#) that identify the [place](#) and indicate (whether in words or images) that the use of:

- (a) cameras or sound recorders; or
- (b) mobile phones or other [electronic](#) forms of communication;

at the [place](#) by unauthorized [persons](#) is prohibited by [this Act](#).

(3) The CEO may publish a notice in the *Gazette* specifying, as an area to which this section applies, an area of an [airport](#) appointed under [section 15](#).

(4) An area specified in such a notice must comprise one or more of the following areas:

- (a) areas that are used by, or frequented by, passengers who have arrived in [Australia](#) until they have passed through the last point at which they or their baggage are normally subject to processing by [officers](#);
- (b) areas that are used by, or frequented by, passengers who are about to depart [Australia](#) after they have passed through the first point at which they are normally subject to processing by [officers](#);
- (c) areas that are in the vicinity of areas referred to in paragraph (a) or (b).

CUSTOMS ACT 1901 - SECT 234AB - Unauthorised use of cameras and sound recorders

(1) An [officer](#) may direct a [person](#), including a passenger disembarking from, or embarking on, a [ship](#) or [aircraft](#):

(a) not to use:

- (i) a camera or sound recorder; or
- (ii) a mobile phone or other [electronic](#) form of communication;

at a [place](#) in relation to which a sign is displayed under subsection 234AA(2); or

(b) not to operate a camera, or use an appliance to record or transmit sound, at a [place](#) (being a [place](#) that is part of a [ship](#), of an [aircraft](#) or of a [wharf](#)) at a time when the [personal](#) baggage of passengers disembarking from, or embarking on, a [ship](#) or [aircraft](#), is being examined, for the purposes of [this Act](#), at or in the vicinity of that [place](#).

(2) Where an [officer](#) gives to a [person](#) a [direction](#) under subsection (1), the [officer](#) shall inform that [person](#) that failure to comply with that [direction](#) is an offence under [this Act](#).

(3) A [person](#) shall not fail to comply with a [direction](#) given to that [person](#) by an [officer](#) in accordance with subsection (1).

Penalty: 10 penalty units.

(3A) Subsection (3) does not apply if the [person](#) has a reasonable excuse.

(3B) Subsection (3) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

(4) In any proceedings for the prosecution of a [person](#) for an offence against subsection (3), evidence that a sign indicating that the use of:

- (a) cameras or sound recorders; or
- (b) mobile phones or other [electronic](#) forms of communication;

at a [place](#) is prohibited by [this Act](#) was displayed at or near that [place](#) is prima facie evidence that the sign was so displayed in accordance with subsection 234AA(2).

(5) In this section, *camera* includes any device for making or transmitting, or designed for use in the making or transmission of, images of objects.

(6) For the purposes of this section, a [person](#) shall be taken to use an appliance to transmit sound at a [place](#) if, and only if, the [person](#) uses the appliance to transmit sound, other than sound coming from the appliance, from the [place](#) to another [place](#).

CUSTOMS ACT 1901 - SECT 234A -Unauthorised entry to places and on ships, aircraft or wharves

(1) A [person](#) shall not:

(a) enter into, or be in, a [place](#) in relation to which a sign is displayed under subsection 234AA(1); or

(b) enter on or be in or on:

- (i) a [ship](#);
- (ii) an [aircraft](#);
- (iii) the [wharf](#) at which, or the part of a [wharf](#) adjacent to which, a [ship](#) is berthed;

at a time when goods being the [personal](#) baggage of passengers disembarking from, or embarking on that [ship](#) or [aircraft](#) are being examined, for the purposes of [this Act](#), at or in the vicinity of the [ship](#), [aircraft](#), [wharf](#) or part of a [wharf](#).

Penalty: 50 penalty units.

(1AA) Subsection (1) is an offence of strict liability.

Note:For *strict liability* , see section 6.1 of the *Criminal Code* .

(1A) Subsection (1) does not apply if the [person](#):

(a) enters into or is in the [place](#), by the authority of a Collector; or

(ab) is the holder of a security identification card (within the meaning of section 213A) who:

- (i) enters into, or is in, the [place](#) for the purposes of his or her employment; and
- (ii) is not subject to a [direction](#) under subsection (1B); or

(b) enters on or is in or on, the [ship](#), [aircraft](#), [wharf](#) or the part of a [wharf](#), by the authority of a Collector; or

(c) is a member of a crew disembarking from, or embarking on, a [ship](#) or [aircraft](#); or

(d) is a passenger disembarking from, or embarking on, a [ship](#) or [aircraft](#); or

(e) is included in a class of [persons](#) whom the CEO determines, in writing, to be exempt from this section.

(1B) A Collector may, at any time, by written notice given to a [person](#) who is the holder of a security identification card (within the meaning of [section 213A](#)), direct the [person](#) not to enter into, or be in or on:

(a) a [place](#) in relation to which a sign is displayed under subsection 234AA(1); or

(b) any of the following:

- (i) a [ship](#);
- (ii) an [aircraft](#);
- (iii) the [wharf](#) at which, or the part of a [wharf](#) adjacent to which, a [ship](#) is berthed; at a time when goods being the [personal](#) baggage of passengers disembarking from, or embarking on that [ship](#) or [aircraft](#) are being examined, for the purposes of [this Act](#), at or in the vicinity of the [ship](#), [aircraft](#), [wharf](#) or part of a [wharf](#).

(2) Subsection (1) does not prohibit a [person](#) who has, or is a member of an authority which has, the management or control of a [wharf](#) or wharves or an [airport](#) or [airports](#) from entering on, or being in or on, a [place](#), [ship](#), [aircraft](#), [wharf](#) or part of a [wharf](#) for the purposes of that management or control.

(3) In any proceedings for the prosecution of a [person](#) for an offence against subsection (1), evidence that a sign stating that entry into a [place](#) is prohibited by [this Act](#) was displayed at or near that [place](#) is *prima facie* evidence that the sign was so displayed in accordance with subsection 234AA(1).

CUSTOMS ACT 1901 - SECT 234ABA - Officers may direct unauthorised persons to leave restricted areas

(1) An [officer](#) may direct a [person](#) to leave a [place](#) in relation to which a sign is displayed under subsection 234AA(1) if the [officer](#) reasonably believes that the [person](#) is in that [place](#) in contravention of [section 234A](#).

(2) The [officer](#) may, either acting alone or with the assistance of one or more other [officers](#) or [protective service officers](#), use reasonable force to remove the [person](#) from the area if the [person](#) refuses to leave when so directed.

(3) However, in removing the [person](#), the [officer](#) (and the [persons](#) assisting) must not use more force, or subject him or her to greater indignity, than is necessary or reasonable.

(4) In this section:

"protective service officer" means a [protective service officer](#) within the meaning of the [Australian Federal Police Act 1979](#).