

## **Questions on Notice to the AUSTRALIAN CUSTOMS SERVICE**

### **Customs Legislation Amendment (Augmenting Offshore Powers and Other Measures) Bill 2006**

*Question 1: Senator Ludwig*

The ACS is invited to comment on the following issue raised in paragraph 3 of the submission from the ACT DPP:

Proposed section 185AA(3) does not appear to permit legitimate claims of legal professional privilege (or, indeed, other privileges protected under Part 3.10 of the *Evidence Act 1995*) to be claimed, even though they may apply to documents. It would not be difficult for documents in respect of which such claims are made to be placed in a secure container (such as a sealed envelope) secured in the presence of the claimant even if kept by the customs officer, only to be opened by consent or by order of a competent court. This would respect an important legal right over which the proposed amendments clearly leave only arguably able to be protected and, indeed, possibly abrogated.

*Answer:*

Customs notes the concerns expressed in paragraph 3 regarding the rights of persons to claim legal professional privilege, or other privileges, in respect of documents. Procedures such as those suggested will be considered for inclusion in operating procedures.