

CUSTOMS ACT (No. 2) 1974

No. 120 of 1974

An Act to amend the *Customs Act* 1901-1973, as amended by the *Customs Act* 1974.

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

Short title
and citation.

1. (1) This Act may be cited as the *Customs Act* (No. 2) 1974.¹

(2) the *Customs Act* 1901-1973,² as amended by the *Customs Act* 1974,³ is in this Act referred to as the Principal Act.

(3) Section 1 of the *Customs Act* 1974 is amended by omitting sub-section (3).

(4) The Principal Act, as amended by this Act, may be cited as the *Customs Act* 1901-1974.

Commence-
ment.

2. Except as otherwise provided, this Act shall come into operation on the day on which it receives the Royal Assent.¹

Interpret-
ation.

3. (1) Section 4 of the Principal Act is amended—

(a) by inserting in sub-section (1), after the definition of “Days”, the following definition:—

“ ‘Developing country’ has the same meaning as in the *Customs Tariff* 1966-1974; ”; and

(b) by omitting from sub-section (1) the definition of “Less developed country”.

(2) The amendments made by sub-section (1) shall be deemed to have come into operation on 1 July 1974.

When goods
deemed to
be the
produce or
manufacture
of a country.

4. (1) Section 151 of the Principal Act is amended—

(a) by omitting from sub-section (2) the words “(other than section 20, or a direction under section 33C, of the last-mentioned Act)” and substituting the words “(other than section 16A or 20 of, or Part IX of Schedule 5 to, the last-mentioned Act)”;

(b) by omitting paragraph (b) of sub-section (2) and substituting the following paragraph:—

“(b) if the goods were partly manufactured in the country, the process last performed in the manufacture of the goods was performed in the country and—

- (i) not less than three-quarters, or, in the case of goods that are of a class or kind not commercially manufactured in Australia, one-quarter, of the factory or works cost of the goods is represented by the value of labour or materials, or of labour and materials, of the country or of the country and Australia; or
 - (ii) in the case where the country is New Zealand— not less than one-half, or, in the case of goods included in a class of goods in respect of which the Minister has determined, by notice published in the *Gazette*, that another portion is appropriate, that portion, of the factory or works cost of the goods is represented by the value of labour or materials, or of labour and materials, of New Zealand or of New Zealand and Australia.”;
 - (c) by omitting from sub-section (3) the words “a direction under section 33C of” and substituting the words “section 16A of, or Part IX of Schedule 5 to,”;
 - (d) by omitting from paragraph (b) of sub-section (3) the words “less developed countries” and substituting the words “developing countries”;
 - (e) by omitting from paragraph (b) of sub-section (3) the words “less developed country” and substituting the words “developing country”;
 - (f) by omitting from sub-sections (5) and (6) the figures “(ii)” and substituting the figure “(i)”;
 - (g) by omitting sub-section (7); and
 - (h) by omitting from sub-section (8) the words “(other than section 20 or a direction under section 33C, of the last-mentioned Act)” (wherever occurring) and substituting the words “(other than section 16A or 20 of, or Part IX of Schedule 5 to, the last-mentioned Act)”.
- (2) The amendments made by paragraphs (1) (a), (c), (d), (e) and (h) shall be deemed to have come into operation on 1 July 1974.
- (3) The amendments made by paragraphs (1) (b), (f) and (g) shall come into operation on a date to be fixed by Proclamation.

5. (1) Section 151A of the Principal Act is amended—

- (a) by omitting from sub-section (1) the words “(other than section 20, or a direction under section 33C, of the last-mentioned Act)” and substituting the words “(other than section 16A or 20 of, or Part IX of Schedule 5 to, the last-mentioned Act)”;
- (b) by omitting sub-section (3).

Direct
shipment to
Australia for
certain
preferences.

(2) The amendments made by sub-section (1) shall be deemed to have come into operation on 1 July 1974.

Value for
duty, how
ascertained.

6. (1) Section 154 of the Principal Act is amended—

- (a) by inserting in sub-section (3), after the word “section”, the words “, but subject to sub-sections (4) and (5)”; and
- (b) by adding at the end thereof the following sub-sections:—

“(4) Where, in the opinion of the Minister, the current domestic value of goods (including goods imported on or after 22 October 1974 and before the commencement of this sub-section) cannot, for any reason, be ascertained for the purposes of sub-section (1) in accordance with the definition of ‘Current domestic value’ in sub-section (3) and a determination under sub-section (5) does not apply to the goods, the Minister may declare that this sub-section shall apply in relation to the goods and where such a declaration is made, the current domestic value of the goods shall, for the purposes of sub-section (1), be such amount as the Minister determines to have been the value of the goods in the country of export at the date of exportation of the goods, and, in making the determination, the Minister shall have regard to such matters as he considers relevant, and (without limiting the generality of the foregoing) may have regard to—

- (a) the price at which similar or comparable goods have been sold, or offered for sale, in the country of export by any person; and
- (b) the cost of manufacturing, producing or purchasing the goods in the country of export.

“(5) The Minister may, after consultation with a person who imports, or proposes to import, goods of any class or kind and after taking into consideration such matters as the Minister thinks relevant (including any matters that the person requests the Minister to take into consideration), determine, by notice in writing given to the person, that, for the purposes of sub-section (1), the current domestic value of goods of that class or kind imported by the person after such date as is specified in the notice (which may be a date earlier than the notice but shall not be a date earlier than 22 October 1974) shall be an amount ascertained in such manner as is specified in the notice, and subject to sub-section (6), the determination has effect accordingly.

“(6) If a determination under sub-section (5) is revoked, the determination shall not have effect in respect of goods imported after the date of revocation or such later date as is specified in the instrument of revocation.”

(2) The amendments made by sub-section (1) shall be deemed to have come into operation on 22 October 1974.

NOTES

1. Act No. 120, 1974; assented to 3 December 1974.
2. Act No. 6, 1901, as amended by No. 21, 1906; Nos. 9 and 36, 1910; No. 19, 1914; No. 10, 1916; No. 19, 1922; No. 12, 1923; No. 22, 1925; No. 6, 1930; Nos. 7 and 45, 1934; No. 7, 1935; No. 85, 1936; No. 54, 1947; No. 45, 1949; Nos. 56 and 80, 1950; No. 56, 1951; No. 108, 1952; No. 47, 1953; No. 66, 1954; No. 37, 1957; No. 54, 1959; Nos. 42 and 111, 1960; No. 48, 1963; Nos. 29, 82 and 133, 1965; No. 28, 1966; No. 54, 1967; Nos. 14 and 104, 1968; Nos. 12 and 134, 1971; No. 162, 1973; and No. 216, 1973 (as amended by No. 20, 1974).
3. Act No. 28, 1974.