



Customs (Tariff Concession System Validations) Act 1999

No. 138, 1999

**An Act to validate certain decisions made, and acts
and things done, under Part XVA of the *Customs
Act 1901***

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**An Act to validate certain decisions made, and acts
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Act 1901***

[Assented to 3 November 1999]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Customs (Tariff Concession System
Validations) Act 1999*.

2 Commencement

This Act commences on the day on which it receives the Royal
Assent.

3 Definitions

In this Act:

affected delegation means any delegation, or purported delegation, by the CEO to an officer of Customs of powers or functions conferred on the CEO under a specified section or subsection of Part XVA of the Customs Act if:

- (a) that delegation was executed on 27 November 1995 or on any later day before 31 May 1999; and
- (b) a revocation of that delegation was not executed, or purportedly executed, before 31 May 1999.

CEO has the same meaning as in subsection 4(1) of the Customs Act.

CTCO means a commercial tariff concession order having effect under Part XVA of the Customs Act as that Part is continued in force by section 20 of the *Customs Legislation (Tariff Concessions and Anti-Dumping) Amendment Act 1992*.

Customs Act means the *Customs Act 1901*.

officer of Customs has the same meaning as in subsection 4(1) of the Customs Act.

TCO means a tariff concession order in force under Part XVA of the Customs Act and includes a CTCO.

4 Validation of affected delegations

(1) An affected delegation:

- (a) if, when it was executed, it was expressed to apply only to persons holding, or performing the duties of, a nominated position—is taken also to extend to persons occupying that nominated position; and
- (b) if, at any time after its execution, any provision of Part XVA was amended so as to affect the ambit of a power or function purportedly covered by the affected delegation—is taken to have applied, with effect from the commencement of that amendment, in the same manner as if the delegation had been revoked and re-executed so as expressly to cover the altered ambit of that power or function.

- (2) Despite subsection (1), all affected delegations are taken to be of no effect from and including 1 June 1999.

5 Validity of decisions made, acts and things done, in reliance on affected delegations

- (1) Subject to section 6, a decision made, or purportedly made, at any time on or after 15 July 1996, in relation to a matter arising under Part XVA of the Customs Act by an officer of Customs holding, occupying, or performing the duties of, a position specified in an affected delegation, is taken to have been, and to continue to be, a valid decision, to the extent that it was made, or purportedly made, in reliance on that delegation.
- (2) Subject to section 6, an act or thing done, or purportedly done, at any time on or after 15 July 1996, in relation to a matter arising under Part XVA of the Customs Act by an officer of Customs holding, occupying, or performing the duties of, a position specified in an affected delegation, is taken to have been, and to continue to be, an act or thing validly done, to the extent that it was done, or purportedly done, in reliance on that delegation.

6 Validation not to apply in relation to certain matters before the AAT and certain refund applications

- (1) Sections 4 and 5 do not apply in relation to any circumstance where a person has, before 1 June 1999, sought a review by the Administrative Appeals Tribunal of:
- (a) a decision of an officer of Customs not to pay a refund of customs duty; or
 - (b) a decision of a delegate of the CEO to revoke a TCO under subsection 269SD(1AB);
- but, before 1 June 1999, the Tribunal has not made a decision on that review.
- (2) Sections 4 and 5 do not apply in relation to any application for a refund of customs duty:
- (a) that is lodged with a Customs officer before 1 June 1999; and
 - (b) that states as the reason, or one of the reasons, for entitlement to refund either:

Section 6

- (i) that a decision to revoke a TCO was wrong because the person making the decision did not have a valid delegation of power; or
 - (ii) that the TCO should never have been revoked; and
 - (c) in respect of which, before 1 June 1999, no decision has been made whether to pay a refund or reject that application.
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*[Minister's second reading speech made in—
Senate on 23 June 1999
House of Representatives on 21 October 1999]*

(127/99)

