

Customs Regulations (Amendment) 1995 No. 423

EXPLANATORY STATEMENT

STATUTORY RULES 1995 No. 423

Issued by the Authority of the Minister for Small Business, Customs and Construction

Customs Act 1901

Customs Regulations (Amendment)

Section 270 of the Customs Act 1901 (the Act) provides in part that:

"(1) The Governor-General may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed ... for giving effect to this Act or for the conduct of business relating to the Customs, ..."

In addition to section 270, above, subsection 153G(1) of the Act provides a specific head of power to prescribe by Regulation the costs which are to be the allowable expenditure of a factory on overheads in respect of preference claim goods. Regulation 107B of the Customs Regulations prescribes costs of factory overheads for the purposes of subsection 153G(1) of the Act. The regulations amend the Customs Regulations to:

- a) provide for two new costs of factory overheads under regulation 107B, in relation to Papua New Guinea or a Forum Island Country only; and
- b) amend a provision regarding the hours of business in relation to the Customs COMPILER computer system.

a) New costs of factory overheads

New Division 1 A of Part VIII of the Act, which includes section 153G, sets out rules for determining whether goods are the produce or manufacture of a particular country other than Australia, for the purpose of determining whether preferential rates of customs duty might then apply to goods imported into Australia from that country. Preferential rates of duty apply to goods from the Forum Islands and Papua New Guinea. Fiji is one of the Forum Island countries (as listed in Part 1 of Schedule 1 to the Customs Tariff Act 1987).

Section 153G provides the mechanism for calculating the allowable expenditure of a factory on overheads as a component of allowable factory costs. This calculation is for the purposes of determining whether or not the allowable factory cost is not less than the specified percentage of a- goods total factory cost, for the purpose of determining whether the goods are the produce or manufacture of the country so that preferential rates of duty might be applied when those goods are imported into Australia.

The regulations give effect to a recent bilateral customs protocol between Fiji and Australia whereby Australia agreed to allow two additional costs of factory overheads as allowable expenditure for the purposes of preferential rates of duty under subsection 153G(1) of the Act and regulation 107B of the Regulations. The additional costs comprise a proportion of overseas travel costs for trade purposes and a percentage of telecommunication costs.

These additional benefits are to be equally applicable to the other Forum Island countries and Papua New Guinea.

b) Hours of business in relation to the Customs COMPILE computer system

The provisions regarding the Customs COMPILE computer system alter the prescribed days of business for the receipt of certain applications, should COMPILE contingency arrangements be declared to apply, to ensure that staff will not have to process certain difficult applications on a state public holiday.

The Regulations implement the above changes as outlined below.

Subregulation 1.1 provides that the Regulations commence on 1 January 1996. This commencement date was part of the bilateral customs protocol between Fiji and Australia.

Subregulation 2.1 provides that the Customs Regulations are amended by the Regulations.

Subregulation 3.1 effects a technical amendment to paragraph 9A(b) of the table in subregulation 19(1) in relation to the Customs COMPILE computer system to provide that the days of business for the receipt of certain applications, should COMPILE contingency arrangements be declared to apply, are Monday to Friday, other than a public holiday. Previously, hours were specified for the receipt of those applications on Monday to Friday, other than a national public holiday (Statutory Rules 1995 No. 321 refers). The amendment will ensure that staff will not have to process certain difficult applications; on a state public holiday.

Subregulation 4.1 amends subregulation 107B(2) to omit "In working", and substitute "Subject to subregulation (4), in working". Previously, costs for the purposes of subsection 153G (1) of the Act could not include international travel expenses or costs of communication. The amendments provide that new subregulation 107B(4) of the Regulations (below) is an exception to the prohibition in subregulation 107B(2).

Subregulation 4.2 adds new subregulation 107B(4) to regulation 107B. The effect of the new subregulation is to add two additional costs which are to be allowable expenditure for the purposes of the preference provisions of the legislation. The additional costs are 25% of the cost of telecommunications, and the cost of international travel expenses incurred to allow 1 person to travel, in a year, to attend 1 trade fair or to purchase equipment, provided that they are in respect of preference claim goods which are the manufacture of Papua New Guinea or a Forum Island Country.

The Regulations commence on 1 January 1996.