

EXPLANATORY STATEMENT

Tariff Concessions Revocation Instrument 11/2009

Customs Act 1901

Background

Part XVA of the *Customs Act 1901* (the Act) sets out a scheme under which Tariff Concession Orders (TCOs) may be made and revoked by the Chief Executive Officer of Customs (the CEO). A lower rate of customs duty applies to goods that are the subject of a TCO.

Under sections 269C and 269P of the Act, a TCO will be made if the application for the TCO meets the core criteria, that is, on the day on which the application was lodged, no substitutable goods were produced in Australia in the ordinary course of business.

Subsection 269SD(2) of the Act provides that if the CEO is satisfied that:

- because of an amendment of the *Customs Tariff Act 1995*; or
- having regard to a decision of a court of the Administrative Appeals Tribunal; or
- having regard to written advice on the matter given by an officer of Customs;

the tariff classification that is stated in a TCO to apply to the goods the subject of the TCO has not, with effect from a particular day, applied to those goods, the CEO must:

- make an order revoking the TCO with effect from that day; and
- make a new TCO in respect of the goods with effect from the revocation.

Instrument

Tariff Concessions Revocation Instrument No 11/2009 was made on 1 August 2008. It revokes TCO 0504353 and makes TCO 0821517. The tariff classification has been changed from 7612.90.00 to 7615.19.00 because of a tariff classification change.

Consultation

No consultation was undertaken since the change is minor or machinery nature and does not substantially alter existing arrangements.

Commencement

Subsection 269SD(2) provides that the order revoking the TCO has effect from the day on which the tariff classification did not apply to the goods. Further the new TCO has effect from the revocation. Subsection 269SD(4) provides that the day may be the day on which the old TCO came into force or a later day.

Subsection 269SD(6) provides that section 269SD has effect despite section 12 of the *Legislative Instruments Act 2003*. Section 12 prohibits the making of certain retrospective legislative instruments.

Tariff Concessions Revocation Instrument No. 11/2009 revoked 0504353 and made new TCO 0821517 on 1 August 2008, with the Revocation date of effect as from 1 August 2008