

## EXPLANATORY STATEMENT

### CEO Instrument of Approval No. 2 of 2010

#### *Customs Act 1901*

Subsection 4A(1) of the *Customs Act 1901* (the Customs Act) defines an approved form as a form that is approved, by instrument in writing, by the Chief Executive Officer of Customs (the CEO). Subsection 4A(2) of the Act provides that the instrument by which a form is approved under subsection 4A(1), is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*. Under paragraph 6(d) of the *Legislative Instruments Act 2003*, approved forms are legislative instruments.

#### **Background**

Section 163 of the Customs Act provides in part that refunds, rebates and remissions of duty may be made in respect of goods generally, or in respect of goods included in a class of goods.

Paragraph 163(1AA)(a) of the Customs Act provides that regulations may prescribe the manner of applying, either by document or by computer, for such refunds, rebates or remissions.

Paragraph 128(1)(a) of the *Customs Regulations 1926* provides that a documentary application for a refund, a rebate or a remission of duty must be in an approved form.

On 30 November 2009, the Federal Government announced that the Australian Taxation Office (ATO) would take over responsibility for the administration of warehoused excise equivalent goods (EEGs) that are in a licensed warehouse from the Australian Customs and Border Protection Service. This arrangement was developed under the Better Regulation Ministerial Partnership, comprising the Assistant Treasurer, the Minister for Home Affairs and the Minister for Finance and Deregulation. EEGs are imported goods that, if produced or manufactured in Australia, would be subject to excise duty.

From 1 July 2010, officers of the ATO will, under delegation, administer legislation applying to EEGs that are warehoused in a warehouse licensed under section 79 of the Customs Act, and other goods warehoused with EEGs.

This new arrangement means that the ATO will be using several forms that are currently used by Customs and Border Protection to process EEGs and other goods. One of these forms is the "Application for Remission of Duty", which is an approved form under the Customs Act. A new version of this form has been designed so that it reflects that the ATO is now the agency with whom some importers and brokers will deal in respect of the remission of customs duty. The form that is currently used by importers and brokers to apply to Customs and Border Protection for a remission of customs duty is unaffected by this new form.

***Instrument of Approval***

CEO Instrument of Approval No. 2 of 2010 approves the “Application for Remission of Duty (NAT 73478-05.2010)” form as an approved form for the purposes of making a documentary application for a remission of duty.

***Consultation***

No consultation was undertaken under section 17 of the *Legislative Instruments Act 2003* before this instrument was made as it is of a minor or machinery nature and does not substantially alter existing arrangements.

***Commencement***

The instrument commences on the 1 July 2010.