

EXPLANATORY STATEMENT

Select Legislative Instrument 2011 No. 234

Issued by the Authority of the Minister for Home Affairs

Customs Tariff Act 1995

Customs Tariff Amendment Regulations 2011 (No. 1)

Section 20A of the *Customs Tariff Act 1995* (the Customs Tariff Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed or necessary or convenient to be prescribed for giving effect to the Customs Tariff Act.

The purpose of the amending Regulations is to amend the *Customs Tariff Regulations 2004* (the Principal Regulations) to update Schedule 2 in relation to ASEAN and New Zealand originating goods under Australia's regional agreement with ASEAN and New Zealand, the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA).

The amending Regulations also add a new Schedule 1A in relation to US Originating Goods and a new Schedule 1B in relation to Chilean Originating Goods to the Principal Regulations, as a result of amendments to Schedules 5 and 7 of the Customs Tariff Act respectively, made by the *Customs Tariff Amendment (2012 Harmonized System Changes) Act 2011*.

The amending Regulations also make a minor amendment to Schedule 1 in relation to US Originating Goods.

The *Customs Tariff Amendment (2012 Harmonised System Changes) Act 2011* received the Royal Assent on 26 July 2011 with a commencement date of 1 January 2012. This Act contains amendments to the Customs Tariff Act which implement changes resulting from the fourth review of the Harmonized Commodity Description and Coding System, commonly referred to as the Harmonized System. The Harmonized System forms the basis of the Australian Customs Tariff. There are approximately 800 amendments to the Customs Tariff Act which will have effect from 1 January 2012.

The Principal Regulations contain several references to tariff headings and subheadings in the Customs Tariff Act. As a consequence of the amendments to some of these headings and subheadings and the resulting reclassification of some goods, the Principal Regulations have been amended to update these references and classifications, also with effect from 1 January 2012. These amendments are technical in nature and involve no change in policy.

US Originating Goods

Schedule 5 of the Customs Tariff Act sets out phasing rates of duty for the purposes of the Australia-US Free Trade Agreement. The Harmonized System changes required an amendment to Schedule 5 to include new items 954 and 955. However, these new items apply in respect of prescribed goods only. The amending Regulations insert a new Schedule 1A into the Principal

Regulations, prescribing goods for the purposes of new items 954 and 955. The prescription of these goods ensures that the phasing rates of duty set out in items 954 and 955 of Schedule 5 only apply to certain goods, in accordance with the Australia-US Free Trade Agreement.

Schedule 1 of the Principal Regulations prescribes goods for the purpose of Schedule 5 of the Customs Tariff Act. Schedule 1 of the Principal Regulations refers to US tariff classifications. This Schedule was established in 2005 when the Australia-US Free Trade Agreement commenced. In the intervening years an examination of the US tariff has revealed one change of tariff classification number and description. The amending Regulations remove subheading 6402.99.20 from Schedule 1 and replace it with new subheading 6402.99.33.

ASEAN and New Zealand Originating Goods

Schedule 2 of the Principal Regulations prescribes goods for the purposes of Schedule 8 of the Customs Tariff Act. Schedule 8 sets out phasing rates of duty for the purposes of the AANZFTA. Some phasing rates apply in respect of prescribed goods only. The prescription of these goods ensures that the phasing rates of duty for these items in Schedule 8 only apply to certain goods, in accordance with the AANZFTA. The Harmonized System changes required the creation of two new items 368 and 369 in Schedule 8 of the Customs Tariff Act, which apply in respect of prescribed goods only. The amending Regulations insert new items 16 and 17 into Schedule 2 of the Principal Regulations, which prescribe goods for the purposes of new items 368 and 369.

Chilean Originating Goods

Schedule 7 of the Customs Tariff Act sets out phasing rates of duty for the purposes of the Australia-Chile Free Trade Agreement. The Harmonized System changes required an amendment to Schedule 7 to include new item 674. However, this new item applies in respect of prescribed goods only. The amending Regulations insert a new Schedule 1B into the Principal Regulations, prescribing goods for the purposes of new item 674. The prescription of these goods ensures that the phasing rates of duty set out in item 674 of Schedule 7 only apply to certain goods, in accordance with the Australia-Chile Free Trade Agreement.

Associated amendments to the *Customs Regulations 1926*, resulting from the fourth review of the Harmonized System, have also been made.

The amending Regulations commence on the commencement of Schedule 1 to the *Customs Tariff Amendment (HS2012 Harmonized System Changes) Act 2011* which is 1 January 2012.

No consultation was undertaken in relation to the amending Regulations as they are minor and machinery in nature and do not substantially alter existing arrangements.

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