

# **EXPLANATORY STATEMENT**

## **Tariff Concession Revocation Instrument 171/2011**

### ***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.

Subsections 269SD(1AA) and 269SD(1AB) of the Act provide that the CEO may revoke a TCO if he or she is satisfied that he or she would not have made the TCO on a particular day.

#### ***Instrument***

Tariff Concessions Instrument No. 171/2011 was made on 23 June 2011. It revokes TCO 0614563 as the CEO is satisfied that he or she would not have made the TCO now.

#### ***Consultation***

Subsection 269SD(1AA) provides that not later than 14 days after the CEO forms the belief that he or she would now not make a TCO, he or she must publish a notice in the Gazette:

- declaring his or her intention to make an order revoking the TCO with effect from that particular day; and
- inviting any person who might be affected by the revocation of that TCO to give a written submission to the CEO concerning the proposed revocation.

Subsection 269SD(1AB) requires the CEO to consider the matters raised in any submissions.

No submissions were received.

#### ***Commencement***

Subsection 269SD(1AB) provides that the order revoking the TCO has effect from the day on which the CEO formed the belief.

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 Concession Instrument No. 171/2011 revoked TCO 0614563 on 27 April 2011.